

# **Accounting for Human Rights**

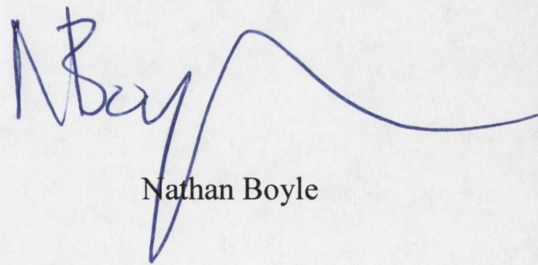
## **Audit Cultures and Professionalism in Forum-Asia**

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of The Australian National University

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Except where appropriately acknowledged, this thesis is my own original work, and has not previously been submitted for the purpose of obtaining a degree of any university or other tertiary education institution.

A handwritten signature in blue ink, appearing to read 'N. Boyle', followed by a long, sweeping horizontal line that extends to the right edge of the page.

Nathan Boyle



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## Abstract

Increasingly over recent years the language and practices of professionalism and audit cultures have developed prominence within human rights NGOs. This thesis examines the practices of a regional human rights NGO in Bangkok, Forum-Asia, and how daily practices, which are constructed around promoting and protecting human rights, connect with audit cultures and the professionalising of organisational practice. The basis for this research is to explore the spaces existing between ideas of human rights, as captured in international human rights law, and the violation and promotion of human rights in specific locales. It is within these spaces that human rights NGOs have played a significant role in bridging this gap. However, the professionalising of NGOs is shaping the practice of human rights, the political landscapes in which NGOs operate, and the subject positions of human rights actors. This process is referred to as the 'paradox of professionalising NGOs'.

There are at least three themes in practising human rights that provide insight into the workings of audit cultures and the professionalising of Forum-Asia: spatial and geopolitical; knowledge production; and discipline and agency. Forum-Asia operates within a human rights regime that consists of institutions, bureaucrats, experts and networks of practice. But how is space constructed, and what effect do NGOs, such as Forum-Asia, have on the production of political space? How should we understand political space? These questions frame the examination of the spaces and sites of power Forum-Asia inhabits in practising human rights.

Practising human rights entails a 'legal culture' that instrumentalises knowledge, and rationalises experiences of and responses to violence in legal form. This thesis explores the institutionalising of human rights and how acts of violence are produced into cases and facts are documented to illustrate human rights violations with a specific focus on dates, time lines, places and responsibility. Through this process there is a detachment and distance between the subject of human rights and instances of human rights violations, and the spaces where violence is experienced and human rights are constituted and produced.

This thesis also examines how human rights practices exist in relation to Forum-Asia's values and principles, as the institutionalising of human rights is one way in which professionalism is given form by Forum-Asia. In exploring the internal workings of Forum-Asia, a different set of values and practices emerge that are connected to professionalism – performance (efficiency and effectiveness), accountability and transparency. Moreover, this thesis analyses how Forum-Asia performs accountability and critiques the premise of audit cultures.



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## Introduction

### **Anthropological Accounts and Accounting for Human Rights**

Since World War II the law and language of human rights have been employed by a diverse range of actors to promote a particular set of ideals for humanity; give meaning and form to acts of violence; to seek redress and justice; mobilise political action; and defend government and state actions (see Steiner & Alston 2000, Keck & Sikkink 1998, Risse et al. 1999, Merry 1992, 2006a). Significantly human rights are now firmly embedded in the international language of freedom, justice and peace.

Yet the nature of what human rights are and how they should be brought about and enjoyed is a contested subject amongst scholars, human rights actors and states. In anthropology this was abundantly clear in the infamous American Anthropological Association's (AAA) 'Statement on Human Rights' in 1947, which rejected the idea of a declaration based on Western democratic individualism (Executive Board 1947). The AAA argued that the rights of "Man in the Twentieth Century cannot be circumscribed by the standards of any single culture" (Executive Board 1947:542). Therefore, promoting universal human rights was seen as antithetical to cultural difference, fuelling the debate between universalism and cultural relativism (Goodale 2006b:485-486). However, the Statement also stated that any declaration should "take into full account the individual as a member of the social group of which he is a part..." (Executive Board 1947:539). Here there is the recognition of the individual, albeit socially and culturally situated within a particular community. Even though the Statement defended the idea of cultural relativism, it also called for tolerance by acknowledging that while cultures might be different, and individuals develop their identities within their cultures, humans are biologically the same (Engle 2001:539).

More recently the anthropological debate between universalism and cultural relativism re-emerged with Abdullahi Ahmed An-Na'im's consideration of cross-cultural perspectives of human rights which revealed the hidden politics in framing debates between rights versus culture (1992). Later a Special Issue in the *Journal of Anthropological Research* (1997)<sup>1</sup> provided a political-cultural approach in exploring the two divergent positions, universalism and cultural relativism, in the theorising and



practice of human rights. In Richard Wilson's influential collection of essays, *Human Rights, Culture and Context: Anthropological Perspectives* (1997b), the authors considered "how rights-based normative discourses are produced, translated and materialised in a variety of contexts" (Wilson 1997a:13). The essays provided contextualised studies that examine the tension between global and local formulations of human rights (Wilson 1997a:23-24). Jane Cowan *et al.*'s *Culture and Rights: Anthropological Perspectives* (2001) provided an anthropological approach to analysing the relations of power between rights and culture. Cowan *et al.* argued for the need to recognise that rights are conceived in a broader framework of power and knowledge, and that culture is both contested and contestable (Cowan 2006:10). From this perspective Cowan *et al.* made visible the ways in which human rights are enabling, constraining and productive (2001).

Fortunately anthropologists have now moved past the universalism versus cultural relativism debate on human rights and instead focus on "the social processes of human rights law" (Merry 2006c:980). But this focus on law and the legal is not without its problems. Wendy Brown and Janet Halley argue that "[s]o saturated by legalism is contemporary political life that it is often difficult to imagine alternative ways of deliberating about and pursuing justice" (cited in Speed 2006:67). They argue that the law is not neutral but instead regulates subjects' behaviour and produces new identities (Brown & Halley 2002:16-25). I suggest that "excessive attention to human rights law distorts our understanding of human rights" (Freeman 2002:12). An anthropological perspective on law and legal processes reveals it to instrumentalise knowledge, and rationalise experiences of and responses to violence in legal form (Riles 2006a:54). Legal instrumentalism refers to the idea that the law is not simply a "means to an end" but rather a problem-solving means as a technical instrument (Riles 2004:790, 2006a:59). This "technocratic instrumentalist" (Riles 2006a:59) reading sees law as a means to articulate and codify human rights into international human rights law. But what follows after this codification?

In recognising the simultaneous productive and constraining effects of instrumentalising human rights in law, anthropologists such as Wilson argue that anthropological accounts should focus on how discourses about human rights and legal institutions are materialised, appropriated, resisted and transformed (1997a:23). From this perspective

human rights are not only considered as instrumental tools in law but are also crucially constructing new subject positions, and new social relations of power between actors. Here the socio-cultural milieu of practice is the focus of an anthropological reading of human rights (Rapport & Overing 2007:169). Yet while anthropologists are departing from cultural relativism, as captured in the AAA 1947 statement, Balakrishnan Rajagopal argues that there is still much ambivalence in conceptualising human rights, particularly in “local” cultural struggles apropos notions of legitimacy and violence, competing discourses such as development, the politics of representation, and the relationship between practice and theory (2007:274).

Anthropologists such as Sally Engle Merry (1992, 2003b, 2006a, 2006b, 2006c, Goodale & Merry 2007) and Annelise Riles (1998, 2000, 2006c, 2006a, 2006b) have studied the “legal culture” (Merry 2003a:71) of human rights. They use anthropological techniques to critique the practice and theory of international human rights law and human rights regimes, while also being “politically or ethically committed to these same regimes” (Goodale 2006a:5). Such anthropological accounts have focused on the *practice* of human rights by drawing our attention to the particular ways in which human rights “law” and “talk” (Wilson 2007:350) is imagined, given meaning and experienced by human rights actors.

In *The Network Inside Out* (2000), Riles explores the aesthetics and form of NGO networks and information systems; the process of producing “texts” and the production of knowledge into legal form. Here Riles examines NGOs in Fiji preparing to attend the United Nations Fourth World Conference on Women, in Beijing in 1995. Riles uses the analogy of the “network”, which is familiar to NGOs, and as an analytical device to examine the pattern and design of UN documents and their aesthetic form. By doing so, Riles argues that the subject position of the anthropologist as an outsider is impossible to maintain when familiar practices and understandings, especially of bureaucracies and information flows, are part of the anthropological enquiry. Riles sees the network as “a set of institutions, knowledge practices, and artefacts that internally generate the effects of their own reality by reflecting on themselves” (2000:3). This contrasts with dominant views that networks are a web of social relations involving communication between nodes in the network. The implication is that the networks themselves generate



information which is restricted to within the network instead of circulating and distributing the information beyond the network.

In *Human Rights and Gender Violence*, Merry (2006b) builds upon this area of anthropological enquiry by employing transnational ethnography to explore global and local mediations of justice in the context of women's rights to protection from gender violence, through competing and shifting meanings of culture and how international human rights are translated into the local vernacular. In the edited collection, *The Practice of Human Rights* (2007), Mark Goodale and Merry develop a practice approach to explore the contested and multiple meanings ascribed to human rights by actors and the diverse spaces where human rights are constituted (Goodale 2007:24). In doing so, the authors bridge the conceptual/theoretical and empirical gap between the codification of human rights in law and the experience of and responses to violence in specific locales. Here the authors focus as much on the legalisation of human rights, to make claims enforceable and to seek redress, as on the social processes and practices enacted daily by human rights actors that give meaning and form to international human rights law.

Winifred Tate has also contributed to this field through a study of the social and political production of human rights within Columbia (2007). Tate explores how different, and at times, competing groups – NGO activists, state officials and military officers – understand the experience of violence and give meanings to human rights for their own ends. The importance of Tate's work is recognising the need to situate debates about human rights within broader historical, political and cultural contexts. This thesis is situated in relation to these bodies of work and recognises the plural, fragmented and contested process of constituting, giving form and meaning to human rights (Wilson 2006b:77). Significant here is not just the focus on everyday practices but also the critical framework on power/knowledge relations (Merry 2006c).

I suggest that a stress on human rights law and even the critique of legalism conceals how human rights are produced in less institutionalised, more informal human rights practices. In responding to this critique I suggest conceptualising human rights as an "anthropological problem" that is constituted as an object of knowledge, technology, politics and ethics (Collier & Ong 2005:6). This thesis is an ethnography of a human

rights NGO, Asian Forum for Human Rights and Development (Forum-Asia), a regional human rights NGO based in Bangkok, Thailand. The story of Forum-Asia provides the basis to explore the practice of human rights, and how events, ideas and meaning shape NGO activities and their approach to practising human rights. The rationale for this research is to explore the complex spaces existing between human rights principles, as captured in international human rights law, and the violation and promotion of human rights in specific locales. It is within these spaces that human rights NGOs have played a significant role in bridging this gap. However, the professionalising of NGOs is shaping the practice of human rights, the political landscapes in which NGOs operate, and the subject positions of human rights actors, yet unevenly and in different ways. I adopt Lisa Markowitz & Karen Tice's reference to this process as the "paradox of professionalising" NGOs (Markowitz & Tice 2002) and explore this paradox through an ethnography of Forum-Asia.

A crucial contemporary issue for human rights NGOs is the professionalising of organisational practice. The issue of professionalism emerges during my fieldwork with Forum-Asia. I observe how some NGO actors use the term "professional" to describe their organisation and to refer to their work while other actors call themselves "activists". Further, there is an increasing emphasis placed on operating within the United Nations human rights system, in particular engaging with the United Nations Human Rights Commission (which has been replaced by the UN Human Rights Council<sup>2</sup> in 2006), the Committee on Human Rights and other treaty bodies. Professionalism entails discourses, practices and knowledge that make governable subjects. This involves adopting technical language and methods, which construct new forms of expertise, identities and practices (Kothari 2005:428). One such technique is accountability and is tied to organisational performance, whereby NGO projects, programmes, resources and finances can be audited.

I initially saw this shift in practice to be what Uma Kothari calls "ordering dissent" (2005) and was interested in how the professionalising of human rights NGOs affects the practice of human rights. However, in exploring the professionalising of Forum-Asia I came to conceptualise the shift in practice and discourses to be far more complicated, uneven and incomplete than suggested in much of the literature (see chapter seven). There is also a need to make visible the contested ways in which actors



engage in professionalism. Here I am interested in the agency of actors and the “productive” nature of power (Foucault 1978, 1980). In analysing how professionalism is given form and meaning, I suggest that there are “spaces of resistance” within the professionalising regime, whereby NGOs are active subjects and not simply subjugated by the hegemonic forces of neo-liberalism (Townsend et al. 2004:872).

The title of my thesis draws the reader’s attention to the *practice* of accounting within the *practice* of human rights. Here I am not attempting to ‘account for’ human rights, such as documenting human rights violations as found in country reports by Amnesty International, Human Rights Watch or Forum-Asia. Instead I am referring to “audit cultures” (Strathern 2000a) as manifest in demands for NGO accountability, and how this shapes the practice of human rights. Human rights NGOs have long campaigned for governments and other actors to be accountable and transparent in their governance arrangements and decision-making, and to be held to account for committing or allowing human rights violations to occur. In such campaigns NGOs espouse human rights as articulated in international legal instruments.<sup>3</sup> In promoting and protecting human rights, NGOs use three main strategies: to name and shame governments and individuals into taking action to respond to human rights violations through campaigns and other activities; to research, document and report on human rights situations; and to educate and train actors to protect people’s human rights and raise public awareness about human rights.

Donors, governments and other actors are increasingly arguing that NGOs must account, and be accountable, for what NGOs do and how NGOs operate. ‘Accounting’ here refers to organisational performance which emphasises efficiency, effectiveness and transparency in terms of financial resources and decision-making processes. These accountability relationships are often directed towards external demands and the requirements of donors rather than subjects of human rights (Najam 1996, Edwards & Hulme 1996a, Smillie & Hailey 2001). Techniques used by NGOs to be accountable are primarily administrative and financial reporting systems, and programme and project reports using standardised data and performance indicators (Ebrahim 2003b, 2003c, Power 1997). These accounting techniques render audit practices supposedly neutral and apolitical (Zanotti 2005:471, Ebrahim 2002:89-90) even though their constitution is tied to producing the subjects of audit practice, a decidedly partial and political process.

It should be remembered that accountability is a normative and socially constructed concept (Jordan & Tuijl 2006:9). Michael Edwards and David Hulme define accountability as “the means by which individuals and organizations report to a recognized authority (or authorities) and are held responsible for their actions” (1996c:967). Jonathan Fox and L. David Brown similarly define accountability as “the process of holding actors responsible for actions” (1998b:12). In expanding upon this understanding of accountability, scholars and practitioners include internal and external, top-down and bottom-up forms of accountability that are seen as relational (Sinclair 1995). NGOs experience multiple accountabilities, which change over time, including relations with donors, regulatory bodies, the subjects of their activities and other stakeholders (Najam 1996). Patrick Kilby suggests that accountability entails four main aspects: to the NGO’s charter and values; to subjects of their activities including victims and human rights defenders; to states and the international system; and to donors (Kilby 2004). However, under a neoliberal era the latter pair of accountability have increased at the expense of the first two by rising external demands and requirements of donors (Najam 1996, Edwards & Hulme 1996a, Smillie & Hailey 2001).

Emma Mawdsley *et al.* argue that efforts by NGOs to accommodate demands for accountability by professionalising have led to:

- the requirement for huge amounts of documentation, with large impacts on time, staff profiles and performance assessment;
- the requirement for increasingly technical language and skills (such as log-fames);
- the focus on identifying, measuring and assessing ‘performance indicators’, even when these say little about whether real change has been achieved or not; and,
- the focusing of attention away from other means by which misappropriation can be reduced, and performance can be enhanced. (Mawdsley et al. 2002:16)

In response to increasing demands of accountability NGOs have witnessed an increase in paperwork, writing reports and having to apply in document form for funding (Mawdsley et al. 2002:16). With an emphasis on documentary practices there is the possibility of rewarding “good documentation” rather than “good work”, especially in counting activities and meeting performance indicators (Mawdsley et al. 2002:16-19). This is in contrast to assessing how efficacious NGOs are in reducing human rights

abuses and the processes used to develop campaigns, and how they are related to political and social change. This reorientation in NGO operations leads to a greater emphasis on NGO actors having specific skills in reporting and documentation, particularly in writing and speaking English.

The professionalising of NGOs shapes how human rights are circulated and the spaces NGOs operate within to promote human rights. Yet in their place-based production new meanings are ascribed to human rights that are culturally and historically contingent, and which mediate between local and transnational meanings of human rights. The focus on legalistic constructions of human rights privileges international and institutional spaces such as the United Nations. To operate in these spaces NGOs require specific legal knowledge about human rights instruments and the United Nations treaty system and sufficient resources to be able to gain access (Martens 2005:97, Tate 2007:175-214). I do not propose that NGOs such as Forum-Asia are becoming part of the “anti-politics machine” of human rights, as argued by James Ferguson in his examination of developmentalism in Lesotho (1994). Instead, I argue that the professionalising of Forum-Asia is both enabling and contraining in shaping the practice of human rights. For example, Forum-Asia still contests the legitimacy and authority of states and their use of violence, while simultaneously operating in international human rights spaces, which maintains the state system and can restrict participation and confine human rights to legal texts and definitional issues.

The professionalising of NGOs results in new subject positions being formed in response to this transformation (see Shore & Wright 2000). Following Henrietta Moore I stress the need not to reduce positionality to a singular and fixed ontological given; instead “[w]hat is at issue is the embodied nature of identities and experience” (1994:2-3). In recognising the multiple and often contested subject positions actors hold, issues of choice and resistance are crucial since some are more powerful and dominant than others. But relations of power are historically contingent and changing (Moore 1994:4-5). For example, the language of advocacy is assuming new resonance in the talk and texts of human rights NGOs, with the diminishing prevalence of the identity “activist” and the label “activism”. This has seen some human rights actors identifying as “professionals” who receive a salary, are increasingly required to hold university qualifications, and demonstrate legal skills and knowledge about human rights

(Hammami 1995:53-58). I do not judge this shift in practice, but rather explore how this shift shapes the practice of human rights and identify some of its implications for Forum-Asia.

### **A practice approach to human rights**

Merry argues there has been relatively little research focusing on “how human rights law works in practice” (2006c:977). That is human rights lawyers focus on laws and legal texts and promote their ratification, rather than on “social and cultural processes” of giving form and meaning to human rights, and issues concerning the implementation and enforcement of the law (Merry 2006c:977). A practice approach emphasises the “embedded pre-existing relations of meaning and production” in the texts, language, symbols and meanings of human rights. In this sense practice refers to the multiple and various ways actors talk about, express, promote, advocate, campaign for, document, report and witness *ideas* of human rights (Goodale 2007:24). It is the multiplicity of actors’ *ideas* of human rights that give meaning to the particular ways in which human rights are practised.

A focus on practice departs from mechanical and prefabricated models of human behaviour and social change, and instead incorporates poststructuralist and postmodernist ideas into human rights theory (Preis 1996:290). Such a framework transcends the artificial and arbitrary division between different types of engagement with human rights: the philosophy of human rights and practice; human rights law and the politics of human rights; conceptual and abstract ideas of human rights and its messy and contradictory practice; and universal and culturally relative approaches to conceptualising and applying human rights principles and ethics. A practice approach also makes visible the contradictions, uncertainties and incompleteness in articulating ideas of human rights within specific locales and how these link to human rights law and discourses within the international human rights regime (Goodale 2007:25-26). I define the international human rights regime to consist of institutions; national, regional and international bodies; bureaucrats, monitors, judges and experts; networks of practice; and circulating information, law and knowledge production (Oberleitner 2007:1-22).



## **Themes in practising human rights**

In drawing upon Cowan *et al*'s. argument that the practice of human rights is both enabling and constraining (2006:10) (see above), I explore three themes that emerge in this study of Forum-Asia: space and geopolitics; knowledge production; and discipline and agency. These themes focus attention on the meanings and values actors ascribe to human rights, the social production of human rights organisations, the production of knowledge, the constitution of political spaces and more broadly the operation of power.

Human rights are grounded in a system of international law constituted between sovereign states (Merry 2006a:100). The professionalising of human rights NGOs further privileges certain types of spaces in the practice of human rights, in particular the United Nations, specifically in Geneva and New York and regional UN spaces such as the United Nations Economic and Social Commission for Asia and the Pacific in Bangkok. Here the legalising of human rights is tied to the institutionalising of human rights.

A structural analysis of political space is typically conceptualised in terms of bordered levels and nested hierarchies, naturalised in the doctrine of national sovereignty and its geographic signifier territoriality (Ferguson & Gupta 2002). Yet how are some spaces such as the UN conceptualised as being international spaces even though they are within state territories, whereas other similar spaces are considered local or national? Bringing the conceptualisation of space into critical view, I question how space is constructed, and what effect NGOs, such as Forum-Asia, have on the production of political space. By focusing on the "production of space" (Lefebvre 1991) I examine the spaces Forum-Asia inhabits and how the bounding and bordering of political space and state territoriality is both reinforced and questioned. The work of Forum-Asia illustrates how one signifier of the scalar model of sovereignty, the national capital (Bangkok), is constituted through multiple sites of power (see chapter two).

As I have outlined above the practice of human rights takes place within a regime of power/knowledge. Using this conceptual framework I explore the institutionalising and legal instrumentalising of human rights. Accordingly acts of violence are produced into

cases and facts are documented to illustrate acts of human rights violations with a specific focus on dates, time lines, places and responsibility (Tate 2007:118). Through this process there is a detachment and distance between the subject of human rights, their embodied experience of human rights violations, and the spaces where violence is experienced and the sites where human rights are constituted as oral testimonies, translated into legal texts and produced as definitive documents.

I examine how human rights practices exist in relation to Forum-Asia's founding values and principles. The institutionalising of human rights is one way in which professionalism is presently given form by Forum-Asia. In exploring the internal workings of Forum-Asia, a different novel set of values and practices emerge which are connected to the language of audit culture – performance (efficiency and effectiveness), accountability and transparency. I examine how Forum-Asia performs accountability and I question what type of accountability is achieved. I outline an alternative framework for understanding and practising accountability, which shifts relations of power in how NGOs are constituted, vis-à-vis, donors and states, and instead concentrates on experiential learning within the organisation with the aim of improving practice.

Finally, addressing the theme of discipline and agency, I explore the tension between the coercive disciplinary nature of professionalism, as against its productive and enabling nature in providing new opportunities to practise human rights and constitute new subject positions. I examine the multiple ways in which power operates and provide a nuanced analysis of the politics of professionalising human rights NGOs that are shaped by contesting and shifting power relations.

### **'Anthropological locations'<sup>4</sup> and researching human rights**

Historically anthropology has tended to privilege the functionalist view of *contained* people, culture, places and identities (Des Chene 1997:78-79). Ethnographies have tended to focus on "small-scale" social units and the "practices and meanings that constitute them" (Merry 2006c:980). Yet Akhil Gupta and James Ferguson question the "assumed isomorphism of space, place and culture" (1992:7) and argue for an understanding of porous boundaries entailing both mobility and movement (Gupta &

Ferguson 1997a). From this perspective the ethnographic “field”, constructed as a closed and defined space that can be easily observed using anthropological methods and techniques is no longer a legitimate anthropological model (Gupta & Ferguson 1997a). Rather, Gupta and Ferguson replace the “field” with the notion of “location”, which brings into question the assumed geographic and cultural divides separating ‘here’ and ‘elsewhere’, and rather sees “sites constructed in fields of unequal power relations” (1997b:35) that interlock “multiple social-political sites and locations” (Gupta & Ferguson 1997b:37). Similarly, George Marcus (1995) coined the term “multi-sited” ethnography to refer to ethnography that connects spatially diverse actors, processes and systems.

How might this critical vision pertain to the practice of human rights? Wilson argues that an ethnographic approach to human rights recognises the plural and contested nature of the international human rights regime (2006b:77). Extending from Cowan *et al.*’s analytical framework as outlined above, Wilson argues that such an approach should focus on the “social life of rights” (2006b:78). Merry’s approach to exploring the practice of human rights includes transnational and multi-sited ethnographic research that tracks the flow of actors, information and resources across national boundaries within the human rights regime (2006c:976). An ethnographic approach is useful in “assessing the complex ways in which law, decision-making, and legal regulations are embedded in wider social processes” (Starr & Goodale 2002:2). For example, in chapter three I analyse Forum-Asia’s response to the disappearance of a human rights lawyer, Khun Somchai Neelahphaijit. Khun Somchai’s disappearance was contextualised within a human rights framework that was represented in local, national, regional and international spaces within Bangkok and the international arena of the United Nations. The campaign included influential actors within Forum-Asia’s network that have access to prominent actors and resources in Thailand and internationally, and are involved in the circulation of information within the international human rights regime. Here the campaigning on human rights involved a transnational response based upon a common understanding of human rights.

Scholars have suggested that an ethnographic approach to exploring the practices of NGOs would lead to contextualising them as being socially produced and constructed, rather than as a naturalised “thing” (Carroll 1992, Wright 1994a, Fisher 1997,

Markowitz 2001). Ethnographic methods are well-suited to developing critiques of hegemonic discourses and to describing the contested meanings and multiple realities that constitute NGOs (Markowitz 2001:40). This approach “confounds and challenges the hierarchies commonly employed in tracing macro-micro articulations” (Markowitz 2001:41) such as international human rights and the articulations of rights in specific locales. To explore the links between institutions, processes and networks of practice that transcend structural boundaries such as the state and a scalar model of space, means questioning spatially derived units of analysis that are presumed to be stable and static such as nation-states, regions, the international arena and the binary logic of the local and global. Starting with spatially nested levels of analysis to explain and describe spatially fluid contexts can potentially obscure relations of propinquity and how the nature of spatial relations of power is constructed (Markowitz 2001:41-42).

### *Accounting for my research*

The anthropological locations of this thesis are the networks of actors, spaces, institutions and information flows intersecting from and extending through Forum-Asia. These include its office, institutional spaces such as the United Nations in Geneva and Bangkok and the Thai National Assembly, sites of protest and demonstration such as the Democracy Monument in Bangkok, and public forums that constitute spaces to contest the state system and promote participatory politics.

My interest in human rights, and in particular the disjuncture between lived experiences and ideals of human rights, began as an undergraduate student. During this time I became interested in social justice and began volunteering for Amnesty International Australia. At university I also explored politics, international relations and studied Southeast Asia. In undertaking a PhD, Thailand provides a prime location to explore the practice of human rights, as various types of human rights organisations are located there and because of the “ebb and flow” of democracy and human rights in Thailand (Hewison & Rodan 1996).

From December 2002 I spent 18 months on fieldwork in Thailand. My initial research project was to explore the particular ways in which ideas of human rights mediate local and global meanings of specific types of rights, such as labour and worker rights.

However, while in Thailand and attempting to obtain a research permit I encountered great difficulty with the National Research Council of Thailand (NRCT), which was not willing to approve my original research project. In response I rather proposed exploring how human rights NGOs practise human rights, and with the support of a well-known academic, Associate Professor Surichai Wangao from the prestigious Chulalongkorn University, the NRCT approved my research.

With my new research topic in hand and time quickly dissipating I began investigating how I would explore the operation of NGOs. I decided to focus on one NGO which would provide an entry point into analysing the practice of human rights and how human rights actors, such as NGOs, produce and circulate ideas of human rights. In Thailand there were only a small number of NGOs on which I thought I could gather sufficient data to write a doctoral thesis. When interviewing people and following political and human rights debates in the country, Forum-Asia was most frequently mentioned. I ultimately decided that the work of Forum-Asia and the process of change it was undergoing provided the greatest potential for an ethnography of a human rights NGO.

As I was involved with Amnesty International Thailand and participated in various human rights events in Bangkok, I became familiar with some of the key Forum-Asia actors. At one such event I was introduced to Rashid Kang, a Forum-Asia staff member, and I talked to him about the possibility of being an intern at Forum-Asia to carry out my research. After meeting Rashid at his office to discuss my proposal, applying for an internship and receiving the clearance of the Secretary General, Pii Somchai Homlaor, I commenced six months work as an intern with Forum-Asia in October 2003. I returned to Forum-Asia in August 2005 to discuss my research findings and to see how Forum-Asia was progressing with the organisational change.

Participant observation and ethnographic accounts of organisational and bureaucratic practice are not new anthropological methods and techniques of research (see Wright 1994a, Harper 1998, Riles 2000). But what can be said of being an *intern*? Do my responsibilities as an anthropologist differ from being an intern? How does being an intern differ from being strictly a researcher? As an intern I had to apply for an intern position and demonstrate a range of skills, experiences and values to Forum-Asia. A

requirement of all interns working at Forum-Asia is to be committed to its work. I demonstrated my commitment through my university studies, my doctoral research and my volunteer work with Amnesty International in Australia and Thailand. I discussed my ability to write and edit reports, assist Forum-Asia staff with their work and carry out other duties required of me. My work history was important to gaining the internship. Being an intern was also an attempt to demonstrate my appreciation to Forum-Asia, which like many NGOs, is resource-stretched yet has an endless supply of work.

As an intern I saw myself, and was seen by others in Forum-Asia, as a colleague, albeit a colleague who was also conducting field research on my host NGO. In her research on human rights activism in Columbia, Tate discusses carrying out “embedded ethnography”, which “highlights the issues of institutional positioning as a central factor in the production of knowledge” (2007:12). My institutional positioning meant I was able to gain access to staff, records and other information, work with colleagues on human rights campaigns, participate in staff meetings and planning events, and carry out any other tasks directed by my supervisor or management. This last point is significant because I was a staff member of Forum-Asia. This meant I could be directed to carry out an activity that I did not agree with nor the position of Forum-Asia on that issue. Not that I experienced any such situations, however, as an intern, researchers may find themselves advocating positions they do not agree with, but which their name, as a representative of the organisation, is for force attached.

I experienced what many researchers do, namely being questioned about my intentions and my presence in a human rights NGO. Some colleagues questioned me about how I would use my data, as some were concerned that I would share my information about Forum-Asia with Thai officials. I assured these actors that I did not report to Thai officials and would not willingly discuss matters about Forum-Asia. I recognised that some information shared with me would have to remain confidential as it was discussed to provide a context to the issues at hand but was not to be included in my thesis.

As an intern I carried out in-depth interviews with Forum-Asia actors and other human rights actors in Thailand. I aimed to critically engage with the work of Forum-Asia and how it operates. This is not to downgrade the significance of its work but rather to



explore the parameters of possibility for the future of human rights practice. In doing so I suggest moving beyond a moralistic binary of NGO practices as posed by William Fisher's (1997) in terms of whether NGOs are "doing good"? Instead I explore both the constraining and enabling effects of the political project of professionalising human rights NGOs.

In producing an ethnography, I recognise that it can only be a partial account and a particular reading of how Forum-Asia actors practise human rights. This thesis is necessarily written with a sense of temporal order appropriate to logical argument and imagined completion. But, as many researchers can testify, research is messy, complicated and very much incomplete. In my account of Forum-Asia it was not easy to capture in words the immediacy and emotions I and Forum-Asia actors experienced, especially witnessing human rights violations, the labour involved in developing human rights texts, having your life threatened and reliving the occasions of success and making change. In representing a slice of time at Forum-Asia, a critical period in their professionalisation, many of the connecting stories prior to and after the events have not been recorded in this thesis. I stress this because it is necessary to acknowledge and be aware of one's limitations while recognising the "ethics and politics" (Tate 2007:12) involved in conducting research with a human rights NGO as their reputation and possible funding could be at stake.

The production of human rights texts by Forum-Asia is similarly a partial account of human rights. Forum-Asia transforms oral testimonies and embodied experiential accounts of violence into particular forms of "witnessing" (McLagan 2006:191) such as fact-finding mission reports, submissions to United Nations treaty bodies, and collective statements with human rights actors in parallel with UN texts. In making human rights violations public and seeking a particular course of action, that course prescribes order and form in framing the acts of violence. For example, in pursuing legal claims, multiple meanings ascribed to acts of violence are concealed in the construction of coherent and stable 'victims' and 'perpetrators', which is necessary under a legal human rights framework (Conley 2008:29) (see chapter seven).

Human rights actors are very familiar with anthropologists and can even anticipate their work and questions. In the concluding chapter I explore the ethics and politics of

researching human rights NGOs. In transferring the voices of human rights actors to the pages of this thesis, at times I directly reference my interlocutors, especially prominent actors. However, when requested or, due to the sensitivities discussed, I do not identify some actors in an attempt to maintain their anonymity.

### **Situating Forum-Asia in a regional context in the late 1980s**

The human rights situation in the region at the time of Forum-Asia's formation greatly influenced its mandate, organisational structure, aims, objectives and programmes. Before outlining the situation I wish to explore the construction of the idea of 'Asia' vis-à-vis ideas of human rights. Richard Evans suggests that the term Asia has been used historically to construct a "cultural uniformity throughout the geographic area" (1993:6). This representation of "cultural uniformity" is motivated by the West,<sup>5</sup> or by Asian political elites who have variously rejected 'Western' notions of democracy and human rights (Evans 1993, Bell 1996, Bauer & Bell 1999).

In the 1980s, a number of Asian states were experiencing internal pressure to liberalise the state and allow for democracy and human rights. Some Asian political elites, especially in Malaysia and Singapore, responded stating that such calls were a threat to national security, unity, stability and economic development (Connors 2004:199, Eldridge 2002:1). Further, Asian elites proclaimed that the hegemonic political, social and cultural norms of individualism, liberalism, democracy and human rights were Western rather than universal norms (Barr 2002:4). Asian political elites instead proclaimed the particularity of 'Asian values'. These debates were premised on a "set of political arguments that rest on cultural or pseudo-cultural premises..." that conceptualises Asian values as an exercise in "cultural politics" (Barr 2002:4). These debates centred around state sovereignty, the role of the state, rights and duties of citizens, and recognising and allowing for political, social and cultural variations in the practice of human rights due to differences in historical backgrounds, social and cultural systems, and the economic development of nations. Asian political elites privileged ideas of consensus, non-confrontation, society and community over the individual, and duties to the state over state responsibilities to the individual (Barr 2002, De Bary 1998, Ghai 1994, Huang 2000, Jacobsen & Bruun 2000).

Ole Bruun and Michael Jacobsen contend that the discourses on Asian values are set up in contrast to the West by constructing competing dichotomies – cultural relativism versus universalism, nationalism versus internationalism, communitarianism versus individualism, and group rights versus individual rights. Further, Asian values became a counter-discourse to influences from “outside” Asian states in the form of Western human rights and “internal” pursuits for increased freedoms and protection (Bruun & Jacobsen 2000:14). At the World Conference on Human Rights in 1993, 171 countries reiterated the universality, indivisibility and interdependence of human rights as contained in the Vienna Declaration and Programme of Action. In response ASEAN leaders released a statement rejecting the universality of human rights and instead promoted the sovereignty of states and non-interference in internal state affairs. In anticipating this act more than 200 human rights actors from across Asia and the Pacific met in Bangkok and produced the *Bangkok NGO Declaration of Human Rights*, which reiterated the human rights contained in the Vienna Declaration and Programme of Action and extended the universality of human rights to democracy and development in Asia (ACFOD 1993).

Asia is a diverse and heterogenous region with varying political, social, cultural and economic systems (Evans 1993:6). The experience of colonialism also varied across Asia, as did the types of states that followed independence. Many ethnic, religious and regional conflicts remain unresolved (Bernstorff & Braun 1991, Ghose 1987, George 2001, Tambiah 1996). Similarly subregions of Asia – Southeast, South and Northeast Asia – are themselves heterogenous, diverse and cannot be easily typified. In Southeast Asia Vietnam and Lao are ruled by socialist regimes. Singapore and Malaysia have one-party authoritarian regimes with symbolic rather than real parliamentary democracy. Thailand and Philippines have elected representative systems, although Thailand has only recently returned to parliamentary democracy following a military coup in 2006. Burma has a military dictatorship. Indonesia is in transition from authoritarianism to a more representative system, while Cambodia is in an even more fluid and open-ended process of transformation (Christie & Roy 2001).

Despite such diversity and complexity, overarching human rights concerns pervade the region and transcend state borders. The central concerns expressed by human rights activists, NGO workers, journalists, academics and lawyers is the prevalence of human

rights violations being committed by state actors, authoritarian and dictatorial regimes in power, the use of security laws to restrict political rights and civil liberties, the weak institutionalisation of democratic principles and practices, weak civil society organisations and issues of uneven development (The Lawyers Committee for Human Rights 1985, Juan 1999, Christie & Roy 2001, Scoble & Wiseberg 1985, Khalid 1985, Desai 1986, Verghese 1992, Viboon 1985, Rupesingher & Verstappen 1989, Kraft 2002).

*To be free: Stories from Asia's Struggle against Oppression* (1999) by Chee Soon Juan juxtaposes six narratives on resistance and oppression in Taiwan, Burma, Indonesia, Philippines, South Korea and Singapore. These stories span decades and countries, yet these individual experiences are linked by the pursuit of a state of freedom, which is starkly contrasted with their homelands, where authoritarian and dictatorial governments rule, human rights are violated and the state system is corrupt. More specifically across Asia we witness the use of draconian laws, particularly national security laws, to detain political opponents and people critical of the government, human rights violations being committed by state and security officials, and the lack of rule of law (Amnesty International 1985-1992). During the 1980s many Asian countries were under authoritarian rule, whereby Asian political elites promulgated order, harmony and consensus over confrontation and adversarial forms of politics. In response human rights organisations, academics and journalists focused on issues which fell under the rubric of civil and political rights, as articulated in the *International Covenant on Civil and Political Rights 1966* (Christie & Roy 2001).

### **A history of Forum-Asia**

In February 1991, D.J. Ravindran, a prominent and highly respected Indian human rights activist in the region, sent a proposal entitled *The Initiative for Facilitating Joint Programmes and Greater Interaction among Human Rights Organisations in South and South East Asia* to human rights NGOs in the two sub-regions. The forum was held on 13-17 December 1991 in Manila, Philippines and 16 NGOs attended from Indonesia, Malaysia, Philippines, Sri Lanka and Thailand. NGOs from India and Pakistan had planned to participate but due to problems in gaining visas they were unable to attend (Ravindran n.d.:11).

The forum addressed two central themes regarding the development of Forum-Asia and how it would operate. The first was to examine the human rights situation in the region and the second concerned how to organise and develop collaborative action at the regional level in responding to human rights situations. At the end of the forum the participants adopted *The Human Rights Situation in South and South - East Asia: Trends and Patterns*, which outlined the future focus of human rights organisations' collaboration in the region. The blueprint "reiterated the universality and indivisibility of human rights [and that] ... '[h]uman rights, democracy and development must be viewed as one integrated, albeit complex process that must be addressed historically'" (Ravindran n.d.:18-19). Eighteen organisations from seven South and Southeast Asia countries were the founding members of Forum-Asia.

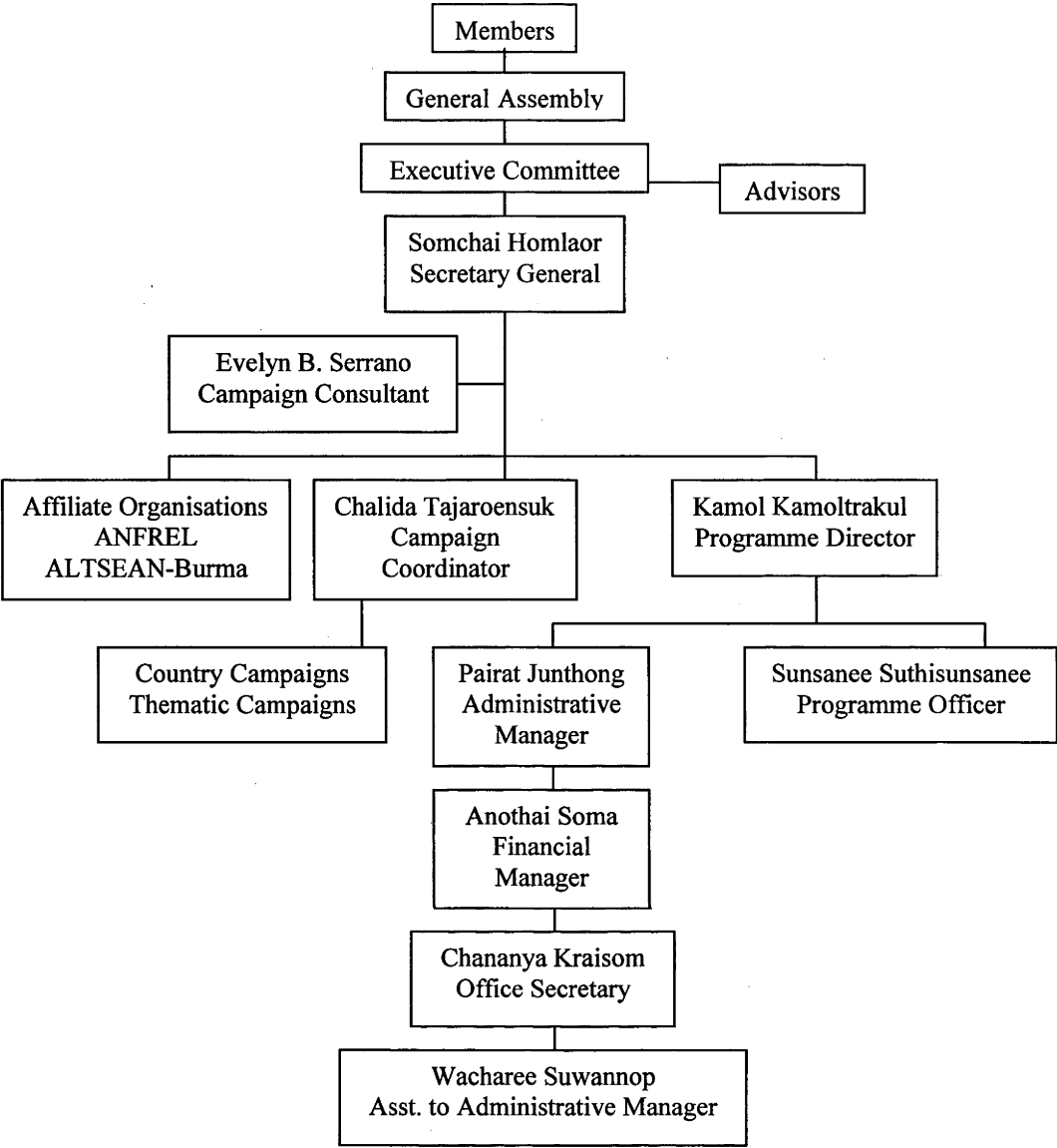
At the time dominant human rights concerns on the world stage were civil and political rights, as reflected in the prominent work of Amnesty International and Human Rights Watch. The founders of Forum-Asia gave equal credence to civil and political rights, and economic, social and cultural rights and included development, espousing a human rights approach to the development of its mandate. The forum also determined that the regional organisation should comprise member-based organisations from the region, an Executive Committee and a Secretariat. In examining the needs of human rights organisations in the region it was determined that the focus of Forum-Asia was to strengthen the internal capacities and programmes of NGOs, and to develop joint actions and campaigns at the regional level which represented the subregions equally (Ravindran n.d.:19-20). The forum also determined that the Secretariat would be located in the middle of the two subregions. Even though Thailand is cartographically part of Southeast Asia, it sits roughly in the middle of South and Southeast Asia. Moreover, in comparison to other countries in the region at the time, Thailand was seen as relatively politically stable and developing a civil society where human rights and development NGOs existed. Bangkok was also preferred since it was the location of United Nation bodies for the region, along with regional media associations and other regional bodies. The forum decided that the Thai human rights NGO, Union for Civil Liberty, would host the Secretariat.

The organisational structure of Forum-Asia comprises three key organs: the General Assembly, Executive Committee and Secretariat (see Figure 1). The General Assembly meets every three years and determines the three-year project proposal. The Executive Committee is selected by the General Assembly and consists of seven members (three from South Asia, three from Southeast Asia and the Secretary General). The Executive Committee meets twice a year, and determines policies and is responsible for planning activities between General Assembly meetings. The Secretariat is headed by the Secretary General, and implements the three-year project proposal. Advisors to Forum-Asia are also consulted to provide expert advice (CSDS 2001:10-11).

At the time of my research in 2003-04 Forum-Asia's objective was to "strive towards the promotion and protection of human rights in the Asian region through collaboration and cooperation among human rights organisations in the region" (Forum-Asia 2003:1). More recently in 2006 Forum-Asia amended its mission to "Forum-Asia works to promote and protect all human rights including the right to development through collaboration and cooperation among human rights defenders and organisations in Asia" (Forum-Asia 2006). In its vision Forum-Asia is:

[C]ommitted to building an alternative society that is peaceful, just, equitable and ecologically sustainable where all human rights of all individuals, groups and peoples -- the poor, marginalised and discriminated people in particular -- are fully respected and realised in accordance with internationally accepted human rights norms and standards. (Forum-Asia 2006)

The 'promotion' aspect of Forum-Asia's work refers to developing and campaigning on national and regional human rights mechanisms and for countries to ratify international human rights treaties; translating international human rights instruments and other human rights texts; developing electoral processes; facilitating internships and visits to important human rights bodies in the region and the United Nations Commission on Human Rights annual session in Geneva; facilitating information sharing between members; developing training programmes on international human rights instruments; providing support services to assist the development of member organisations; and research and publications (CSDS 2001:14-19).



**Figure 1: Forum-Asia's organisation structure in 2003-04**

The ‘protection’ of human rights refers to Forum-Asia’s campaigns and joint actions at the local, national, regional and international level on human rights issues such as internally displaced persons, refugees, violence against women and responding to emergency situations. These programmes are carried out through publishing reports and documenting human rights violations, undertaking fact-finding missions, election monitoring and trial observations, and campaigning for the independence of the judiciary and using UN mechanisms in member organisations’ campaigns (CSDS 2001:14-19).



Initially Forum-Asia was primarily engaged in strengthening the capacity of its member organisations while conducting a limited number of campaigns and programmes. In the first year Forum-Asia had only one staff member, Pii Chalida Tajaroensuk, who joined in January 1992, and was both the administrator and campaign coordinator, and continues working with Forum-Asia to this day. In May 1993, Khun Wanida Karunan, joined Forum-Asia and in 1994 became a full-time assistant to the Secretary General. With the increase in Forum-Asia's activities a full-time administrative manager was necessary, so in January 1995, Pii Pairat Junthong, filled this role (Ravindran n.d.:24). However, with the involvement of members and other actors in the region it expanded its budget, campaigns, programmes and staff to include capacity-building programmes such as human rights training and monitoring, utilising UN mechanisms and integrating economic, social and cultural rights into campaigns, and increasing both country and thematic campaigns. At the time of my research Forum-Asia had more than 20 staff and interns.

Today Forum-Asia has 40 member organisations from 15 Asian countries and has emerged as a focal point for regional and intra-regional human rights activities such as the Asian-Europe People's Assembly, NGOs in Consultation with the United Nations (CONGO), and the Asian People's Assembly. It has also established itself as a reliable source of information on human rights situations in the region and is called upon to conduct briefing sessions and to provide advice to UN bodies, government representatives, the World Bank and diplomatic missions. The success of Forum-Asia and its subsequent organic expansion resulted in a call in 2000 to evaluate its past and determine its future direction. This resulted in an evaluation and a set of recommendations that were being implemented by Forum-Asia during the period of my research. This planned path of organisational change ultimately led to the unforeseen split between the Forum-Asia Foundation, the Thai legal entity which provided Forum-Asia legal protection, and Forum-Asia in 2005 (see chapter five). Despite this thesis being an ethnography of Forum-Asia, I offer no predictions about the future of Forum-Asia. Instead, I contend that understanding the historical path in which Forum-Asia has travelled provides important insights into understanding the challenges facing many human rights NGOs in the contemporary world.

## Tracing Forum-Asia

In this thesis I trace how Forum-Asia operates between national, regional and international spaces within the human rights regime. These spaces extend beyond its office and Bangkok to regional capitals, Geneva and New York and networks stretching across national and international spaces. At different times my focus will be on everyday practices in Forum-Asia's office and at a planning retreat, a Senate inquiry and public sites of protest in Bangkok, and the United Nations Human Rights Commission in Geneva. I connect these geographies of human rights to the multiple and intersecting spaces of the human rights regime. However, I recognise that the relationship and proximity between actors experiencing human rights violations and the spaces where human rights are constituted involves distanced social and spatial relations of power where too often the least visible and most marginalised are absent from these engagements. Moreover, the instrumentalising of human rights involves layers of bureaucracy and technocrats that increases the emotional distance between human rights administrators and human rights subjects (Jean-Klein & Riles 2005, Riles 2006a). One role Forum-Asia plays is to speak for the 'victims' of human rights violations.

I found it difficult to conceptually separate spaces such as local, national, regional and international when analysing how Forum-Asia operates. Human rights practices are based upon permeable relationships in circulating ideas, resources and actors. For example, invoking human rights within specific locales demonstrates how ideas 'out there', i.e. rights contained in international legal instruments, are made present in particular places. This idea of "presence and absence" or "proximity and distance" (Callon & Law 2004) in the operation of human rights reminds us that spaces are interconnected and offers new insights into the ordering of political space, and hence the potential for alternative spaces for resistance. Val Plumwood (2008) uses the term "shadow places" to bring into critical view the denied, hidden and unrecognised places that enable the construction of a singular place (Plumwood 2008:139-146). Although she emphasises this in terms of a global ecology, a similar concept might be developed in relation to human rights regimes.

My three chosen themes in practising human rights pervade the entire thesis but to differing degrees in each chapter. The thesis is divided into two parts: geographies of human rights; and professionalising human rights knowledge and practice. In part one I introduce the reader to Forum-Asia and explore the social production and meanings Forum-Asia actors give to their organisation. I consider what Forum-Asia is as a 'regional' Asian human rights NGO and suggest this is based upon a simplistic reading of space and geopolitics. I question the usefulness of a nested scalar model and explore alternative ways of conceptualising the spaces where human rights are practised and power exercised. To analyse how the professionalising of Forum-Asia is shaping the practice of human rights, I focus on everyday practices and the spaces used by Forum-Asia to promote and protect human rights.

In part two I focus on the production of human rights knowledge and the auditing of social practice through the institutionalising of human rights and the professionalising of Forum-Asia. The professionalising of Forum-Asia embodies a set of values and practices that valorises accountability, transparency, efficiency and effectiveness. I explore how such values influence Forum-Asia's practices and are embedded within discourses about professionalism and new managerialism. In focusing on the agency of Forum-Asia actors I explore how these political projects are contested and given form in a variety of ways which can result in unintended consequences. In producing an ethnography of Forum-Asia, I attempt to highlight human rights actors' agency in giving meaning to the professionalising of organisational practice, and how actors embody and contest this political project. I conclude this thesis by exploring future directions in the anthropologising of human rights and return to questions of ethics and politics in researching human rights NGOs.

Despite the divide in the thesis there is a link between the two parts, in particular through issues concerning spatial or ethnic borders and whether Forum-Asia was a 'regional' or 'Thai' NGO. These issues relate to Forum-Asia's earlier forms of 'activism' that were critiqued as were the perceived undue influence of personalistic, hierarchical Thai relationships on the organisation of Forum-Asia. The espousal of a more professional advocacy NGO operating in the international human rights regime privileges actors who were not necessarily embedded in the Thai context and who had the technical and legal skills to operate in broader spaces.

I hope this thesis honours the stories told to me, their multiple meanings and what I witnessed. I remain committed to the work of Forum-Asia and hope this thesis contributes to ongoing discussions about the practice of human rights, the professionalising of organisational practice and the institutionalising of human rights.

*Asian solidarity and human rights for all.*<sup>6</sup>

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## Notes

<sup>1</sup> Volume 53, Number 3.

<sup>2</sup> On 15 March 2006 the General Assembly adopted a resolution to replace the HRC with the Human Rights Council. The HRC was criticised for being political and not being consistent in its resolutions, such as criticising Israel, whilst not other countries. It was also criticised for having members that actively violated human rights and operated to stop criticisms being made against their States. Even though changes were made to the membership of the Council such as reflecting regional groups, states that demonstrate a flagrant disregard for human rights are still members of the Council.

<sup>3</sup> International human rights law is expressed through the six human rights treaties and their respective treaty bodies: International Convention on the Elimination of All Forms of Racial Discrimination (created in 1965 and entered into force on 1969)/Committee on the Elimination of Racial Discrimination; International Covenant on Civil and Political Rights (created in 1966 and in force 1976)/Human Rights Committee; International Covenant on Economic, Social and Cultural Rights (created in 1966 and in force 1990)/Committee on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women (created in 1979 and in force 1981)/Committee on the Elimination of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (created in 1984 and in force 1987)/Committee against Torture; and the Convention on the Rights of the Child (created in 1989 and in force 1990)/Committee on the Rights of the Child.

<sup>4</sup> I adopt this phrase from Gupta and Ferguson (1997).

<sup>5</sup> Similarly the West has been historically and politically constructed.

<sup>6</sup> Forum-Asia's mission statement.

**PART I**

**GEOGRAPHIES OF HUMAN RIGHTS**

## Chapter 1

### Forum-Asia: Everyday Practices and Sense-making

We can see that “even the most material aspects of organizations are only made real by being given meaning” (Hawkins 1997:424).

What is Forum-Asia and how are *ideas* of human rights implemented in campaigns and activities? This chapter explores the meanings Forum-Asia actors give to their organisation – its goals, values and programme activities. I am interested in the social production of the organisation and how different actors express conflicting and divergent realities, and the different sites of power operating within Forum-Asia. This chapter provides an insight into the workings of professionalism within Forum-Asia. That is, how do daily practices, which are constructed around promoting and protecting human rights, connect with audit cultures and the professionalising of organisational practice? It is within everyday practices that concepts and values such as accountability, transparency and efficiency are given meaning and form. My interest here is to explore how ideas of human rights are implemented in everyday NGO practices and relate to organisational values, which change through emplaced responses and contestations to professionalism.

The chapter is organised in three parts. The first part explores the social and spatial relations enacted in daily routines by Forum-Asia actors. The second part examines three human rights campaigns and the different meanings of human rights evoked by Forum-Asia actors. The third part explores ideals and values of professionalism and audit practices which were discussed at Forum-Asia’s planning retreat and developed in Forum-Asia’s Project Proposal for July 2004 – June 2007.

#### Spatialising Forum-Asia

Forum-Asia is a professional regional NGO that works to promote and protect human rights in the region by working with member organisations and other human rights and civil society groups. (Forum-Asia actor, October 2003)

It [Forum-Asia] is a place for me to work because I get to work with people. I don't want to work for the government, it's too bureaucratic and not for business, it's too corrupt. I also learn about human rights. (Forum-Asia actor, November 2003)

Human rights are about people and I'm a person. Forum-Asia is part of the people movement and this is my life! (Forum-Asia actor, February 2004)

These meanings which actors confer on Forum-Asia share an emphasis on human rights and are people-centred, though there are subtle differences. The first stresses the professional nature of Forum-Asia and is similar to a mission statement, and identifies the role of member organisations and other actors to work together to promote and secure human rights. The other two are more personal and suggest the actors' motivations for working at Forum-Asia. The second emphasises a perceived difference between a human rights NGO and government and business, and how the latter two are less focused on people and social justice and their deficiencies, namely bureaucracy and corruption respectively. The third stresses the connection between Forum-Asia and the role human rights NGOs play in a wider socio-political movement for change. These three viewpoints provide an insight into the different ways in which Forum-Asia is imagined, the possible motivations actors have for working at Forum-Asia and the position of human rights NGOs within a wider political context.

Dorothea Hilhorst suggests that organisations are “characterized by multiple realities: they hinge around various and often conflicting discourses, and interweave different modes of production” (2003:146). My interest is in exploring how these different meanings interact, conflict or converge in the professionalising of Forum-Asia. I argue that questions of meaning underlie the decisions people make in their daily work including priorities and courses of action. For example, deciding whether to write a report or attend a campaign meeting, or whether to organise a street protest or to lobby the government, are partially influenced by the meanings and values actors ascribe to their work.

A key actor in Forum-Asia during my research was Pii Somchai Homlaor, the inaugural Secretary General of Forum-Asia who is a prominent lawyer and human rights actor in Thailand.<sup>7</sup> In discussing Forum-Asia with staff and others, many people felt that “Pii Somchai was Forum-Asia” and that he came to represent the organisation, both his



personality and his style as a leader and manager.<sup>8</sup> I do not dispute the dominant, and even beneficial, role Pii Somchai has played in conferring meaning to Forum-Asia. Yet as I argue in chapter five where I explore the split between the Forum-Asia Secretariat and the Forum-Asia Foundation, *all* actors are engaged in meaning making. By focusing on the social production of Forum-Asia in this chapter I question the central position of leaders in representing the meaning of the organisation, rather opening spaces for organisations to embody multiple sets of ideas, values, meanings and practices (Hilhorst 2003:174). Still, as we will see, the ability for actors to influence the meanings ascribed to an organisation varies depending on their social and spatial positioning, their specific engagement in the social production of the organisation and relations of power.

### *A tour of Forum-Asia*

Forum-Asia is located in a converted three-story house in the Huay Kwang district in central Bangkok. Forum-Asia is only a 10-minute walk from the underground train system, and is located at the end of a short *soi* (small road off a main road) where both small businesses and a handful of houses are located (see Figures 2-5). The iron gate of Forum-Asia's premises opens onto a concrete courtyard with a cane table and two long chairs, occupying most of the right side of the courtyard. Here people smoke, drink, eat, read newspapers, talk, and discuss planning or campaign activities. Within these spaces more casual and open relations are enacted to negotiate and sometimes contest hierarchical positions and organisational relationships. It is also in these spaces that people's values and views on politics or contentious issues are explored, including views on the then Prime Minister Thaksin Shinawatra, the role of civil society, globalisation, or issues which are not openly and publicly discussed. Piles of shoes are also placed in this area as they are removed before entering the building.

On the ground floor of the building is the reception area, where Tik the receptionist works. Here there is a vinyl couch and a bookstand containing Forum-Asia's publications on human rights issues, training manuals, handbooks and reports. On the back of the front door are notices detailing public events and forums taking place in Bangkok, as well as other information of interest. Beyond the reception area is another open area, which is used mainly for storing materials, reports or other campaign material, some of which has not been distributed, as well as stationery and desks. Here,



Noi, the cleaner keeps her belongings or enjoys a nap when work is quiet. At the back on the ground floor is the kitchen. Visitors and staff bring food to Forum-Asia and leave it in the kitchen for it to be eaten and enjoyed by the staff. The ground floor area is primarily the domain of staff at the lower end of the NGO hierarchy, and it is within these spaces that management, people and issues are informally discussed or people chat, joked and have fun. The three upper floors of the building contain rooms to the left and right side of the staircase landing where project officers, campaign coordinators and administrative staff work. Since Forum-Asia is an NGO with substantial funds workers have their own desk and computer, while some have laptops. People's desks are spaces where relations are negotiated as it is here that work is prioritised, and projects are discussed and implemented. The upper floors are dominated by professional work concerns and pervaded by more formal and hierarchical relations.



Figure 3: Picture of Forum-Asia from the street  
Photo: Nathan Boyle



Figure 2: Picture of Forum-Asia's façade  
Photo: Nathan Boyle

The downstairs kitchen is a communal space where personal and playful conversations often ensue. The following dialogue occurred in the kitchen one day between two female workers and reflects the personal relations between the co-workers:

Female 1:	<i>Ao kafe may?</i>	Would you like a coffee?
Female 2:	<i>Ao kha.</i>	Yes please.
Female 1:	<i>Say non may?</i>	Would you like some milk?
Female 2:	<i>Say kha.</i>	Yes please.
Female 1:	(Whilst holding her breasts)	
	<i>May mii nom.</i>	I don't have any milk/breasts.
Female 1 and 2:	Laughter	



The word *nom* means both milk and breasts, and the above play on words was a variant of a punning dialogue occasionally enacted between Thai women at Forum-Asia and in Thailand more generally. The pun was a way of having fun, joking amongst friends and letting off steam. It also evokes the environment of Forum-Asia, which was usually relaxed and casual. The playful conversation also suggests that even though NGO workers are passionate and concerned about human rights, they are not consumed by the seriousness of their work. Such practices also highlight the playful humanity of NGO workers, in contrast to representations made by some critics of NGOs in Thailand that they are hot tempered (*jay ron*), angry and confrontational (see Boonyarattanasoontorn & Chutima 1995, Dechalert 2002). The above dialogue suggests that in informal spaces, such as Forum-Asia's kitchen, relationships are relaxed and relatively egalitarian.



Figure 5: Picture of Forum-Asia's façade  
Photo: Nathan Boyle



Figure 4: Picture of Forum-Asia's courtyard  
Photo: Nathan Boyle

This is in contrast to more formal spaces and a rigid zone upstairs where hierarchical relations are enacted and relations of power are more pronounced. One formal space is the meeting room/library, which has a small boardroom table, chairs, television and white board. Bookcases along two walls contain human rights material, separated by country and theme. The meeting room is used to hold staff meetings to strategise and develop projects, provide project updates, and to convene meetings with external actors such as donors or officials visiting Forum-Asia. Burmese and English language classes are also held in this room. A senior staff member usually chairs meetings: for instance Pii Chalida led staff meetings which focused on the progress of people's activities and any hurdles or delays they were experiencing. Her aim was always for open and frank



discussions. In other meetings Pii Chalida would frequently ask questions, query people's statements, including senior staff, and put her own ideas and comments forward for discussion.

Outside these rigid zones, such as the meeting room, lower-ranking staff would contest, interpret and give alternative meanings to management decisions, ideas and values. For example, the regional campaign on integrating gender issues into human rights work entailed an initial training course for human rights organisations on integrating gender perspectives into work plans. Non-management staff that had an interest in this work collaborated privately on how to further this work as they thought more concrete action was necessary, especially in how to examine human rights violations from a gendered perspective. Outside formal meetings these staff would try to incorporate this into the human rights work of NGOs and would not promote the creating and implementing of gender policy for organisations, which was a focus of the training event.

I recognise that this is not unique to Forum-Asia and occurs in many organisations, not just human rights NGOs. What is interesting is how this sits in relation to Thai constructions of social hierarchy, an important part being *pii-nong* relations. In Thai a prefix is used before a person's name to indicate them as being either your elder (*pii*) or junior (*nong*) sibling. *Pii-nong* is also used in other interpersonal relations, such as with friends or at work, but rarely with strangers. *Pii* is always used, however, *nong* would mainly be used with children, therefore if *pii* was not used it indicated a *nong*. It was explained that *pii-nong* relations do exist in Forum-Asia, but that with foreign staff working in the secretariat such *pii-nong* relations change. For example, *pii-nong* relations usually restrict and hinder discussions between staff in staff meetings or planning sessions where a *nong* might be less willing to speak out against or not support a decision made by a *pii*. However, if someone else made a suggestion, such as Kang (a Malaysian) or Ami (an Australian), the *nong* might publicly agree with the suggested changes being made in opposition to the views of their *pii*.

However, *pii-nong* relations can change and relations of power shift within the ordering of Thai relations. The above examples of Pii Chalida and Nan, a junior Thai staff, who would confront more senior Thai staff when she felt they were disrespecting her, do not conform to more conventional representations of Thai interactions where lower ranking

staff would be expected to make minimal comment and nod in agreement with management actors' decisions and ideas (see chapter four on Thai constructions of identity).

These different informal and formal spaces are characterised by divergent bodily practices including language, posture, and how and when to engage in discussions are enacted. In open and relaxed spaces banter and jibes may be performed, actors can eat and drink whilst discussing matters, and casually sprawl over the furniture. In contrast in rigid zones formal and professional language is enacted, and actors' posture conforms to the large black boardroom style chairs, which restricts casual seating or lounging. Timing pressures, priorities and the seriousness of the matters under discussion, can also influence these embodied styles of behaviour. By moving between these spaces actors are able to negotiate their relations, change their social and spatial positioning, and thus transform relations of power such as deciding whether to have a meeting in an office, in the courtyard or during lunch at a local eatery.

### **Campaigns, actors and spaces**

The meanings actors ascribe to these everyday spaces are not evanescent but are influenced by their histories and personal experiences. These backgrounds influence the organisation's goals, values and programme activities. Thus sense-making in organisations is a social process sedimented in time and history (see Brown 1994, Hilhorst 2003, Wright 1994b). To illustrate the social production of Forum-Asia and how human rights are given meaning and form, I explore three stories of my own experience with colleagues in Forum-Asia.

#### ***Kang and I: a submission to the United Nations***

One morning Kang, the Human Rights Defender coordinator, came upstairs to my desk and asked me to help him with a submission to the UN Panel on Threats, Challenges and Change.<sup>9</sup> Kang explained that Pii Somchai had just contacted him and wanted Forum-Asia to make a submission because Gareth Evans, a UN Panel member, was to visit Bangkok. An international press conference would be organised to discuss Forum-Asia's submission with Evans.<sup>10</sup> I was later informed that Ajan Gothom Arya, chairman

of the Forum-Asia Foundation, assisted in organising the press conference as Ajan Gothom was a member of the International Peace Foundation's organising committee, which was hosting Evans in Bangkok. Ajan Gothom played an important role in this activity and was a key leader of Forum-Asia connected to a broader network of influential actors, especially in Thailand. These networks were formed through his political background, long involvement in the organisation and in the NGO/human rights environment. His influence was derived not just from his internal organisational role but also from his location within networks beyond the organisation.

Forum-Asia's submission was a site of power in itself (see Riles 2006c). The first step in producing the submission was gathering opinions and views from other NGOs and civil society organisations which would be included in Forum-Asia's submission. This process was also to strengthen the recommendations, as they would be seen as representing many Asian civil society organisations. To do this Kang emailed a large number of individuals, human rights workers, academics and NGOs asking for their input at a closed-door preparatory meeting at Chulalongkorn University, which was chaired by Ajan Gothom. Prior to the preparatory meeting Kang and I prepared a discussion paper. At the meeting people discussed the issues raised in the discussion paper, which in turn was used to produce the submission. After the preparatory meeting Kang and I returned to Forum-Asia, sat at his desk and re-worked the discussion paper into a draft submission.

The submission focused on challenges to peace and security including human security; broadening the United Nations' decision-making processes; more equitable power relations between UN Security Council members; the immediate need for demilitarisation; developing internationally legally binding treaties on corporate accountability regarding human rights and the environment; and a universal jurisdiction not constrained by bilateral agreements. The following day Pii Somchai, Ajan Gothom, Ambassador Asda Jayanama (Forum-Asia advisor) and I met at Forum-Asia in the meeting room to discuss the draft submission. Pii Somchai loosely chaired the meeting. However, since Ajan Gothom was the main person suggesting amendments he actively led the discussion. One specific suggestion made by Ajan Gothom was to insert the International Commission on Intervention and State Sovereignty's (ICISS) Report, *The Responsibility to Protect* (2001),<sup>11</sup> in the paragraph outlining the documents used to

produce the submission, because Evans was the Co-Chair of the ICISS. Ajan Gothom suggested this might provide additional authority to Forum-Asia's submission.

Two days later an international press conference was held at the Dusit Thani hotel in Silom district, Bangkok. Prior to the conference Kang and I handed-out copies of Forum-Asia's submission to journalists and other interested people. The conference commenced with Evans and the International Peace Foundation's representative discussing armed conflict and peace. The conference then proceeded into a dialogue session with Evans in his role as a member of the UN Panel. Ambassador Asda, who was a former Thai Ambassador to the United Nations in New York, chairing the session. Participating were Ajan Gothom, Pii Somchai and Nicola Bullard of Focus on the Global South, an NGO based in Bangkok at Chulalongkorn University. Ajan Gothom holds a PhD and was publicly introduced as "Dr Gothom," reflecting his high social status. At the beginning of the dialogue session Ajan Gothom handed Forum-Asia's submission to Evans, which was used as the basis for discussion. As chairman of the Forum-Asia Foundation, Ajan Gothom led the discussion. He was very knowledgeable on human rights and displayed a wonderful style in raising serious concerns by drawing upon examples from the Asian region.

During the dialogue I was surprised that Pii Somchai did not participate more as he too has a high command of human rights issues in the region. However, Pii Somchai did participate on the issue of armed conflict in the region, particularly discussing the situation in Southern Thailand where violence had ensued since early 2004, where buildings had been bombed and burnt, people, including Buddhist monks killed and where excessive force had been used by Thai military and police, including extrajudicial killings. After Forum-Asia's dialogue with Evans the floor was opened to comments and questions from the audience. The main issues discussed were the war in Iraq, unilateral force and the relevance of the United Nations.

During the press conference, Khun Anand Panyarachum, the former Thai Prime Minister and chair of the UN Panel, walked into the press conference and sat on the front couch to listen. Prior to the press conference people were wondering whether Khun Anand would attend and be part of the press conference. I subsequently learnt in an interview that an important person connected to Forum-Asia knew Khun Anand and

was in discussions with him about attending the press conference. However, Khun Anand would not participate in the dialogue session because he wanted to be seen to be neutral on potentially divisive issues. Khun Anand's attendance also helped the press conference receive media attention and was reported in the following day's newspapers. The international press conference with Evans and Khun Anan's appearance enhanced the symbolic power of the event. The media coverage raised Forum-Asia's public profile and newspaper articles were inserted in reports to donors.

Forum-Asia's submission was produced within spaces where discourses about human rights, peace and security were invoked and the operations of the United Nations (Forum-Asia 2004b). These spaces are generally referred to as the 'international arena'. However, in this context the international arena was primarily Forum-Asia's office, Chulalongkorn University and the Dusit Thani Hotel, rather than United Nations' buildings in Geneva or New York. Still Forum-Asia's submission circulated beyond Bangkok to the Secretariat of the UN Panel in New York, and ideas of human rights and global governance were discussed between actors who operate within the field of human rights but within different spaces and relations of power. Such circulating ideas, resources and actors cannot be neatly bound to separate conceptual spaces such as local, national, regional and international.

### ***Pii Maow: the Nagas Cultural Performance***

Pii Maow was born in 1971 in Surithani and has two younger brothers. At high school she was involved in performance and drama, and after attempting a science degree, pursued an arts degree and majored in English literature at Ramkhamhaeng University in Bangkok. Whilst at university Pii Maow was a member of *asaa samat* (a volunteer club) and helped build homes and promote the conservation of land in villages. Pii Maow explained that she volunteered because it suited her, and she liked helping other people. After completing her degree, Pii Maow worked in a bookstore, taught Thai, and studied an Indonesian course with a former worker of Forum-Asia, Brida. Through their friendship Pii Maow learnt about Forum-Asia and asked if a job was available. In June 2001 Pii Chalida required an assistant, Pii Maow applied and was offered the job. I asked why Pii Maow came to work at Forum-Asia, and she honestly stressed that she



needed a job to earn money. However, her desire in helping communities was also articulated:

I chose to work on social issues because I don't only focus on money. I do things that make me happy and I don't think about the future. I'm concerned with conservation. I want to educate people about how to look after the environment. (Pii Maow, interview January 2004)

In exploring Forum-Asia's projects Pii Maow discussed the importance of networks when she organised a cultural performance by the Naga people of India, which was to facilitate an intercultural dialogue and exchange on cultural diversity, and the freedom of cultural expression. The Nagaland is situated between India, Burma and China and since the British invasion in 1832 of what is now India, the Nagas have been fighting for independence. More than 150,000 have been killed and the Indian state has carried out a range of repressive measures against the Nagas, including forced relocations and aerial bombings (Pii Maow, interview January 2004).

The cultural performance was held in Bangkok so that the public could learn about Naga people, their struggle for independence, and their social, political and environmental problems. Here the bodily practice of human rights was constructed not through UN style documents and texts, but rather through artistic expression, interpretation, dance and music. Forum-Asia did not generate a series of recommendations for governments to consider, but instead promoted intercultural dialogue and exchange between Thais and the Naga people and consciousness-raising about the plight of the Naga people. The intimate spaces of people's minds, feelings and values were engaged in embodied spatial relations existing between the performers and audience, and the geographic territory of the Naga people, where their rights were being violated.

The performance was brought to Thailand because it would be allowed by the Thai state, in contrast to other countries in the region. Forum-Asia became involved in the Naga peoples' cause when the leader of the Nagas was arrested in Thailand for using a fake passport and they helped secure his release from jail. Pii Maow explained that if he had used an Indian passport he would not have been allowed to leave India. To secure the leader's release, Pii Chalida drew upon her senior state and political party official

contacts, whom she had come to know over the years whilst working on human rights issues, attending forums and seminars, as well as from her days in the student movement of the 1970s.

In assisting the Naga leader, Pii Chalida learnt about their situation and wanted to help, so she decided that an activity could be part of Forum-Asia's thematic campaign on facilitating peace and reconciliation. The Nagas wanted a project to focus on their situation in India but Pii Chalida suggested a performance because it would be easy to organise, a good medium for providing information to the public about their situation, appealing to audiences and would be more readily approved by the Thai state. In putting together the performance Pii Maow received help from *Dinso Sii* (Colour Pencil), a very famous performance group in Thailand.

For the Nagas to perform in Thailand they required visas from the Department of Immigration. Strategically, rather than sending a letter to the Ministry seeking permission, where a response might take months, Pii Chalida telephoned the Ministry to speak to a senior official to discuss the matter informally. Once the conditions of the Nagas entry into Thailand was agreed to by the Immigration Ministry, Pii Maow sent a letter to the Ministry formally requesting permission for the Nagas to enter Thailand. The main obstacle to the cultural performance was the Indian Embassy, who contacted people at the venues where the performances were to be held and pressured them to cancel the performances. India is concerned about Naga groups seeking independence from India, and both parties are engaged in armed conflict. Pii Chalida spoke to Indian Embassy officials to resolve the problem and argued that the Indian Embassy should allow peaceful protests so that the situation in India would not intensify into more violence. Pii Chalida also had to speak to the Thailand Cultural Centre, a performing arts venue, to convince them to allow the performance to be held. Pii Chalida reaffirmed that it was a peaceful cultural performance, and stated that if they did not support peaceful forms of demonstration what other options were there? Two days before the performance was held the Centre gave permission and the performance ran smoothly.

*Pii Kamol: Campaigning for local alcohol*

Pii Kamol is the programme director of Forum-Asia and was born in 1951 in Bangkok. He studied economics at Assumption College and then a Masters degree in Financial Management at Thammasat University. Whilst at university in the 1970s Pii Kamol became involved in student protests against the military dictatorship, formed an independent student group called *Saphanadom*, and published a magazine called *Nueng Baht* (One Baht) and *White Peril* regarding the US occupation in Vietnam. Pii Kamol further explained his background:

My neighbour was a politician, and I often heard him and others discuss politics. I too had strong opinions on the issues being discussed. I also believed that student activism is good because I believed the political situation in Thailand was not right, and that the people should do something to change this and stop the oppression. I believe in democracy and constitutional rule. In my third year at university, and increasing involvement in activism, the police placed me under surveillance so I had to leave Thailand. I went to the United States because I thought this was the best way to maintain my safety. I lived in the United States for 10 years and continued my political activities. I started a foundation to raise funds for Thai NGOs, and would travel back and forth between Thailand and the United States. In 1997 I permanently returned to Thailand. When I returned to Thailand I did not want to work for the business sector. I knew Pii Somchai and Ajan Somphorn from the Thai NGO, Union for Civil Liberty, from my student activism days and spoke to them about employment. They suggested that I work for Forum-Asia, and I then became the programme director. (Pii Kamol, field notes 2004)

Pii Kamol is involved in economic, social and cultural rights. He explained that for people to have dignity, they must have a meaningful life first, including access to food, health, water, housing and education. Besides Forum-Asia, Pii Kamol was also a member of the Senate Sub-committee on Human Rights and on Finance, a sub-committee member of the Human Rights Commission and was previously an advisor to the Minister of Interior in the previous Democrat Party. Pii Kamol explained that due to Forum-Asia's connections to government and state officials, it was able to survive the current government crackdown on human rights activists.

In his focus on economic, social and cultural rights, Pii Kamol recounted a campaign in Thailand involving the local production of wine and whisky. Previous laws forbade

illegal wine and whisky production by farmers. The production of alcohol was monopolised by state licensed companies and saw farmers pay high prices for it. This affected their living as they would be arrested and fined by police for producing alcohol. This law had been in place for more than 50 years. Pii Kamol campaigned for five years to change the laws and allow farmers to produce their own wine and whisky. As a result of combining the activities of farmers, NGOs and academics, now farmers have a right to produce alcohol for their own consumption and for making a living. However, Pii Kamol admitted that there were still some small problems with the law. In explaining to me how he became involved in this campaign, Pii Kamol first highlighted his own enjoyment in drinking wine. The campaign began in 1997 as there were newspaper reports about police and the Excise Department arresting people for illegally producing alcohol:

I began thinking about what could I do. I wrote articles in the paper about this issue. NGOs began contacting me, and invited me to speak, especially northern NGOs in Chiang Mai and Chiang Rai.

The Biotech Department at Assumption University, NGOs and I discussed how to deal with this issue, as well as to improve the quality and know-how for farmers to produce alcohol. We then organised a wine contest to see which farmer could produce the best Thai wine to drum-up local support and obtain media coverage.

During this time I was an advisor to the Ministry of Interior. I tried to lobby the Minister to change this law. He agreed with me so I organised a drafting committee to look into this issue, which included the Excise Department and Tax Department. This was not successful because too many officials joined. Only the Minister of Interior supported the change to the law, but the government did not agree. The Tax Department kept delaying the proposed amendments.

We [the farmers, academics, NGOs and Pii Kamol] organised many rallies and campaigns in Chiang Rai. The largest gathering totalled more than 10,000 people. I also had Khun Surasri Kosonavin from the Human Rights Commission speak on the issue in terms of the rights of farmers. I know him because we are both on the sub-committee of the Human Rights Commission. Newspapers published articles on this issue, including the *Thai Rat*, which has the largest newspaper circulation in Thailand.

When Thai Rak Thai came to power, they had a policy on helping the poor. They saw the problem for the farmers, also because they see farmers as supporters of Thai Rak

Thai. Khun Phansak is a senior advisor to Prime Minister Thaksin and I know him. He agreed with changing the law. Khun Phansak spoke to Thaksin about the issue. After that the Ministry of Finance was ordered to change the law for farmers to produce alcohol under certain conditions.

We are still helping farmers through the university, by improving know-how and increasing competition in local wine production, as well as training on production, which improves the quality of the alcohol. Rather than producing wine from sweet rice, we are also using fruits and other ingredients. This in turn reduces the prices of the other ingredients by increasing their usage. (Pii Kamol, field notes 2004)

The case was localised in sites of rural Thailand and embodied “plural spatial relations” (Amin 2004:38) that were connected to the political site of the government in Bangkok. To exert pressure and influence change, the case was framed as a national matter for Thai farmers and the 1997 Constitution was invoked by seeing it as a violation. In using the 1997 Constitution the actors focused on claiming rights to change the legislation. Here the actors were transformed by the human rights regime which interpolates these actors as rights-holders whilst also promoting a subject position for them as victims of unjust laws from which they might move to create social change (see Merry 2003b).

Two important factors in the success of the campaign was the connection with people in government and pressure being exerted from the people themselves. In relation to the latter, Pii Kamol said that it was necessary for the people to be well organised. To support the organisation of the farmers, NGOs assisted in organising rallies to highlight the issue. The network of NGOs involved in this issue included many groups, but mainly alcohol producers as well as the Coalition of Local Alcohol of Thailand, which has approximately 30,000 members. Pii Kamol also used his networks to organise academics and other prominent people to speak at the rallies. The focus of the rallies concentrated on unfair treatment by the police, but they did not address the constraints entailed by the banning of the local production of alcohol. To address this weakness Pii Kamol asserted that the police and Treasury violated the constitution, as monopoly laws were invalid under the Constitution.

**Ordering space and practice: the Kanchanaburi planning session**

In this chapter I have explored the social production of Forum-Asia and how human rights are given meaning and practised in space and in three illustrated examples. Now I turn to exploring how the ideals and values of professionalism are being implemented and how this shapes the practice of human rights. New managerialism and audit cultures are increasingly crucial to how professionalism is given form within Forum-Asia. New managerialism, usually instigated by donors and governments, involves the appropriation of private sector practices to increase performance and maximise efficiency in the not-for-profit sector. Here the focus is on performance outputs and documenting practices (Ebrahim 2002, Mawdsley et al. 2002). Audit culture involves the twin axes of economic efficiency and accountability, and the deployment of techniques to improve efficiency, productivity and effectiveness through audit practices (see Strathern 2000a, 2000c, 2006, Shore & Wright 1999, 2000).<sup>12</sup> Both new managerialism and audit cultures assume that NGO practices can be measured and assessed in terms of output and performance. I examine these values by analysing Forum-Asia’s planning session for 2004 and its decision-making processes. Pervading these processes were tensions between the values of democratic participation and hierarchical relations based on organisational position, ethnicity and gender.

**Table 1: Forum-Asia’s values and principles**

<b>Organisational Values:</b> <ul style="list-style-type: none"><li>- Equality of all human being(s) and non-discrimination</li><li>- Universality and indivisibility of all human rights</li><li>- Interdependence and inter-relatedness of human rights, democracy, development and peace</li><li>- Peaceful and non-violent conflict transformation</li><li>- Ecologically sustainable human development</li><li>- Gender equality</li><li>- Cultural diversity and multi-culturalism</li><li>- Autonomy and independence of civil society</li><li>- Democratic participation, transparency and accountability.</li></ul>	<b>Operational Principles:</b> <ul style="list-style-type: none"><li>- Grass-root, victim-oriented and people-centred approach</li><li>- International solidarity and people's empowerment</li><li>- Participatory and member-centred policy</li><li>- Proactive partnership and cooperation based on common vision and values</li><li>- Team spirit and work for synergy, coherence and inter-linkage</li><li>- Balance between process and result</li><li>- Harmony between organizational and personal growth.</li></ul>
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Forum-Asia’s planning session was held at a resort in Kanchanaburi in February 2004, which is a three hour bus or train ride from Bangkok, located north-west near the Burmese border. The planning session was held in Kanchanaburi so staff could get away from the office and escape the hot, polluted, crowded and noisy environment of

Bangkok, and to have a short break. Holding a meeting away from the office also ensures that all the staff will be present and unable to leave to attend to other pressing matters. The resort provided the opportunity to develop Forum-Asia's project proposal for 2004 to 2007, as well as for people to relax, unwind and have fun.

The planning session was held in a large cabin style conference hall. The conference hall was fitted with desks and chairs in a U shape, with microphones, an overhead projector and whiteboard. Outside was a deck stretching out over the river. Deep Ranjani Rai who convened the planning session, was at the time a change management consultant assisting Forum-Asia implementing recommendations from a 2001 evaluation (see chapter seven). Deep commenced the morning by outlining the objectives of the planning session: to finalise activity plans and budgets for the period January to June 2004 (extending the 2001-2003 project proposal); to develop, discuss and agree on activity plans for July 2004 to June 2007; to discuss and clarify organisational issues and structure, and job descriptions; and to explore financial matters. Deep also announced that there was one rule: that everyone had an opinion, and everyone could express their views, which were to be respected and listened to. Deep was a strong advocate for promoting participation and saw it as her responsibility to facilitate this process.

This idea of participation is often promulgated by NGOs, including Forum-Asia, and involves decentralisation, non-hierarchical processes and democratising decision-making. Within Forum-Asia this is to enable the issues of member organisations to be taken-up by the secretariat and incorporated into campaigns, as well as to facilitate all staff to participate in decision-making. These processes are also part of a broader programme to democratise civil society, and in so doing strength it (Missingham 2003:173). Democratising civil society has been adopted by NGOs and other civil society organisations as a strategy to respond to criticisms from donors, states and critics for not being open and transparent. Concerns about NGO accountability and legitimacy is constructed, vis-à-vis, the state and other actors (see Edwards & Hulme 1996a, 1996c, Edwards 1999, Ebrahim 2003b).

### ***Making a cake: project development in three easy steps***

My subtitle brings to mind the image of a person making a cake by following the recipe instructions on the back of the cake box. I suggest that a similar image is evoked in the project development of NGO programmes through developmentalist techniques including technical language and methods of development, which construct new forms of expertise – skills, techniques and knowledge (Kothari 2005:428). By following these three easy steps NGOs are supposedly able to develop, implement and evaluate sound, coherent and rational projects that are participatory, accountable and legitimate.

#### ***Step 1 Technical skills and auditing***

The first session of the workshop focused on strengthening internal capacities of Forum-Asia staff in project planning, budgeting, monitoring and writing. Deep provided three handouts explaining the different phases of project development, and supplied Forum-Asia's budget and expenditure for 2001 to 2003. In applying for funding Forum-Asia compiled a Project Proposal for the period January 2001 to December 2003. The proposal is separated into four parts: programmes for strengthening capacities for local human rights organisations and activists; responding to difficult situations through advocacy and campaigns; strengthening internal capacities through organisational management and development; and assessment and evaluation. Donors' funds can be either for the total programme or for a specific project, but donors expect all funds to be spent with no balance remaining within a specified period. This common accounting practice creates new pressures on expenditure, especially when unforeseen events delay projects as occurred to Forum-Asia working in the conflict areas of Nepal and Aceh when it was not able to deliver peace programmes in 2004-2005.

A major concern raised by Deep was the variance in expenditure, both under and over, in programmes. Some projects spent vastly more than was allocated, in contrast to other projects not expending their budgets. For example, the regional annual human rights training budget was US\$146,700, however, US\$157,129.60 was spent, leaving a -US\$10,429.60 deficit, whereas the national human rights treaty bodies budget was US\$30,600.00 but only US\$700.59 was spent, resulting in a surplus of funds +US\$29,899.41.



In highlighting these problems Deep led a session on budget formation so that staff could better understand their budgets and be aware of their spending. To assist this process Khun Pansa, an accountant, gave a presentation on Forum-Asia's new Administration Manual and explained how Forum-Asia could adapt and improve its administrative system to accommodate its expanded operations with an increased number of projects, staff and donors. The manual explored new operating procedures for financial and accounting systems, processes and regulations, which involved the production of records and other 'paperwork' (Power 2003a:386). The objectives of the new system were to simultaneously simplify but increase the audit detail of the financial system, be able to create monthly reports, increase the itemisation of budget lines, track expenditure, specify and define procedures for approval of budget expenditure, and create a management system for all stake holders, which adhered to donor requirements.

The new system would also allow for greater "financial control disciplines" (Power 2003b:188) and be overseen by the administrative officer to comply with regulatory and donor reporting requirements. Here the institutionalising of audit practises is ritualised through the production of micro-interactions and macro-constructions of an accounting culture of professionalism, objectivity and practice (Power 2003a:384). This in turn results in "managerialist instruments of accounting, budgetary control, auditing, and quality assurance" (Power 2003b:191) which disciplines and makes governable Forum-Asia's practices.

This is achieved through standardised data and performance indicators and administrative systems, which expand regulations to monitor, inspect and assess performance, usually through proxies, that promote economic efficiency and accountability (Ebrahim 2003b, 2003c, Power 1997, 2003a, 2003b, Strathern 1996/7, 2000a, 2006). These technical and administrative functions of governance render audit practices supposedly neutral and apolitical (Zanotti 2005:471, Ebrahim 2002:89-90) even though their constitution is also tied to producing the subjects of audit practice, a decidedly partial and political process. These "information struggles" between donors and NGOs result in a privileging of "positive and easily quantifiable valuations of success and failure" as a result of reporting and budgeting protocols (Ebrahim 2003c:77-78).

How do daily practices, which are constructed around promoting and protecting human rights, connect with audit cultures and the professionalising of organisational practice? Inasmuch as the session on financial planning was concerned with issues of good governance and improving efficiency and increasing the auditing of Forum-Asia, there seemed to be a disconnection between training these new practices and how they would be enacted daily by Forum-Asia actors. The focus on administrative and management procedures, budgeting and monitoring seemed very separate from the daily practices of Forum-Asia actors, such as lobbying and advocacy work, organising and running workshops, seminars and training programmes, and undertaking fact-finding missions. Apart from producing financial reports for donors, enabling the tracking and monitoring of budgets, ‘efficiency’ was not connected to the *doing* of human rights work. The subjects of this auditing did not seem interested in these new processes, and some actors reported that it would involve more paperwork with little benefit to their work, except for developing projects with itemised budgets and line items. Some actors also suggested that projects and programmes could and should be evaluated, but the new administrative and financial system would not help them do this. They also explained that the reporting to donors focused unduly on tasks and budgets rather than outcomes and reflecting on how to improve programmes.

Michael Power argues that an audit culture is not a neutral technical practice but rather “shapes preferences, organizational routines, and the forms of visibility, which support and give meaning to decision making” (Power 2003a:379). Audit cultures also have a dual purpose of quality assurance and control, thereby legitimating and enhancing the role of administration and management, as well as constructing an ‘auditable’ self (Shore & Wright 2000). Through such subjectification Forum-Asia actors are asked to self-audit their projects. The disconnection between audit practices and what is considered NGO/human rights work is clearly illustrated when donor reports had to be submitted. Donors have commented that Forum-Asia’s reports are not submitted in a timely way and lack information on programme evaluations and outcomes. Pii Watcharee, an assistant administrator, was responsible for putting together the reports and frequently had great difficulty in receiving reports from programme officers on time. Some actors saw this as her job and not theirs or said they were “too busy working”, suggesting that report writing was not considered work and therefore not a

priority (Interview Pii Watcharee November 2003). Some people kept a detailed record of their projects and activities, while also carrying out evaluations, whereas other staff wrote their report at the last minute and carried out no assessments of their activities apart from some sort of post-the-event thought. These different perspectives on report writing suggest personal working styles are constrained and more uniform practices are adopted by the new management culture of professionalising NGOs. Consequently Pii Watcharee spent a lot of time in “information struggles” (Ebrahim 2003c:77) in writing, editing and formatting Forum-Asia’s reports.

### *Step 2 Project planning*

[P]rojects face the difficult task of creating a recognisable, bounded, integrated whole out of some complex ingredients: local geography, community, and economics, project ‘inputs’ (including people), and the procedures and mechanisms for changing the world that we call ... practice. (Craig & Porter 1997:231)

The next session involved everyone presenting briefly on their activities up until 30 June 2004, where people asked questions and sought clarification on budgets available. After lunch Pii Somchai presented the new project proposal for the next three-year period (2004-2007), provided copies of the Forum-Asia Strategic Plan and Proposal, and emphasised the following:

Forum-Asia’s human rights activities will focus on development issues, such as globalisation, and incorporate other human rights issues. The new proposal shall incorporate the recommendations of the evaluation report, being:

1. Too many activities and the need to focus more specifically;
2. The need to increase the participation of members, which we have not done in the past; and
3. Increase the professionalism of our activities, such as by having two sub-regional coordinators, transforming the organisational structure, including the accounting system, personnel policy, as well as preparing, monitoring and evaluating projects. (Pii Somchai, field notes 2004)

Pii Somchai informed the room that Forum-Asia’s major campaign theme was human security and this was reflected in the following campaigns: the impact of free-trade agreements on people and local communities; and the impact of terrorism and anti-

terrorism laws on civil liberties, democracy and human rights. Further, the major challenges over the next three years would be: upholding the international rule of law, human rights standards and international human rights mechanisms; building and strengthening Asian civil society, and being part of a global civil society; gender integration and the rights of women; and funding strategies because of the economic development of Thailand, whereby donor funds for Thailand have shifted to other less developed countries in the region, such as Cambodia and Vietnam.

After this session Deep announced that people either in groups or by themselves were to finalise their project plans and budgets for the next project period (July 2004 to June 2007) and these would be presented the following day. Some people stayed in the conference hall and used computers to work on their proposals, while others left the hall and sat under trees or on the grass near the river to work. The projects were developed partly in consultation with other coordinators, but primarily done individually. Here projects can be seen as a “powerful way of binding together particular purposes, ideas, resources along with people and places” (Craig & Porter 1997:230). The following day each person presented their project proposal, and fellow workers provided feedback and made comments. For example, Sanjay, the South Asian sub-regional coordinator, presented a detailed three-year plan, which was developed in consultation with Pii Somchai. One project involved migrant workers and its funding came from the migrant and refugee budget line item. However, Sanjay did not consult Dass, the relevant programme coordinator about the project. This created tension between the two coordinators as Das thought he should have been involved in developing the project.

David Craig and Doug Porter suggest that the development of projects follow a specific formula called ‘project rationalities’ and are captured in project proposals, reports and evaluations with the aim of creating the impression of order (1997:233). In examining the second step of project planning I provide examples from Forum-Asia’s Project Proposal and the project “Promoting Right to Development and Poverty Alleviation” (see Figure 6). The first rationality is *project goals/rationale*, which concern statements based on values, morals and ideals. For example, “every human person and all people are entitled to participate in (and contribute to and enjoy) development”. The second rationality is *project objectives*, which list the concrete project results that should be specific, measurable, achievable, realistic and time bound. For example, “Strengthening

capacity of grass roots organizations ... to participate in Development planning that promote poverty alleviation and rights to development”.

The third rationality is *project activities*, which list the activities that will achieve the objectives and goals such as “A manual of strategies for advocacy activities of ESCR, right to development and poverty alleviation”. The fourth rationality is *project indicators of results/outcomes*, which aim to capture and measure the outcomes achieved by delivering the project.<sup>13</sup> For example “Ensuring women and the grass root participate in government development projects”. Forum-Asia’s project plan is also situated within a funding cycle of three years, and project activities and outcomes are positioned within a timeframe. This cycle is segmented and sequential whereby measurable outcomes are achieved within a specified time (Craig & Porter 1997:232). The effect of these project rationalities is to promote a coherent and rational perspective entailing continuation from the macro ideals and values of the project to micro practices and activities. In the ordering of organisational practice future work is planned, organised and agreed to in the present, and then becomes amenable to auditing, assessment and evaluations by actors in the future (Harper 1998:111).

The framing of projects also constructs the subjects of projects, usually referred to as ‘target groups’. This population is itemised and atomised through project objectives and confirmed through project indicators/outcomes. Project subjects are categorised through labels such as ‘the community’, ‘grassroots organisations’, ‘human rights defenders’, ‘women’, ‘migrants’ and the list continues. Ultimately the ‘project as a frame’ represents social practice as being ordered and neatly captured in a project proposal or plan, whereby goals rationalise objectives, and in turn activities that are legitimated by indicators and results. Further, the objectives frame the target group in the image of the goals, which are based on pre-existing morals and ideals. This constructs any project as both idealistic and practical whilst mutually reinforcing the coherency and legitimacy of the project (Craig & Porter 1997:231-234).

2 Promoting Right to Development and poverty alleviation.

Rationale:

The declaration on Right to Development features participation in its first article. It stress that by virtue of their inalienable right to development "every human person and all people" are entitled to participate in and contribute to and enjoy development. It is essential for states to foster participation by the poorest people in the decision-making process by the community in which they live, the promotion of human rights and efforts to combat extreme poverty.

The market-oriented policies which aimed at development outward looking internationally competitive economies have been faulted for their neglect of the adverse social consequences they can have on the poor segments of the population. These policies have shown an inbuilt bias towards reducing the role of the state and restricting the domain of public responsibility. Consequently, the state's responsibility for health, education, social security and poverty alleviation often gets diminished. The social concern and care for the weaker sections of society which was the bedrock of the welfare state of the industrialized economies and which humanised the process of development, finds little or no expression in the new market-oriented ideologies.

In recognition to The Declaration on Right to Development and response to the market-oriented policies which contributes to poverty, consequently is gross human rights violation. Forum-Asia plans these activities:

General Objective for Advocacy,

1. Strengthening capacity of grass root organizations community based organizations and the poor particularly women to participate in development planning that promote poverty alleviation and rights to development.
2. To integrate the "rights elements" and "right to development" (participation process in planning) into the economic and development indicators and clarification of "indicators" to measure the government's human rights obligations with respect to ESCR, rights to development and human security.
3. The promotion and protection of the international ESC norms and to advocate for poverty reduction and human security in the framework of right to development.

Indicators of results:

- Ensuring governments and Corporations integrate the norms, standards, and principles of the international human rights system into their plans, policies and process.
- Ensuring right to development in the first article of The Right to Development, adopted by the United Nations General Assembly in 1988 are recognized.
- Strengthening rights of vulnerable groups particularly women from the root cause of poverty and development policies.
- Bring groups from national and regional levels that are working on ESC, human security debt and poverty alleviation issues, and to join a broader ESC-coalition initiative worldwide/ regional wise.
- Ensuring women and the grass root participate in government development projects.

Implementing activities:

- Six workshops in the next three years.
  - A manual of strategies for advocacy activities of ESCR, right to development and poverty alleviation.
  - 6 regional lobby position papers and reports aim at CHR, WB, IMF, IMF and other multilateral bodies etc
- A. Regional workshops and three sub-regional workshops for clarifying context, and developing strategies for advocacy activities of ESCR, right to development and poverty alleviation.
- Two regional workshops on the first and third year of the 3 years proposal. The second regional workshop is the follow up to the first regional workshop.
  - 3 sub regional workshops in three years. (SA, SEA and EAV Central Asia)
  - All these regional and sub-regional workshop will be organized in line with the preparation toward important international/ regional platform such as Commission on HR, WTO, IMF, APEC, ASEM etc.
- B. Support the participating of NGO's to attend 6 international parallel meetings of civil society to develop common advocacy activities of ESCR, rights to development, poverty alleviation, within the span of 3 years.

Implementation arrangement

The Programme Director will be responsible and will work closely with the Thematic project coordinators and the sub regional coordinators.

Budget: Regional Training on Right to Development regional  
(For 4 days and 30 participants)

Airfare and travel taxes (\$600x30 participants from overseas)	18,000.00
Board and lodging (\$30x5daysx30participants)	4,500.00
Conference room for 4 days(250*4)	1,000.00
Resource persons fee and travel expenses (\$1,000x3persons)	3,000.00
Facilitator's fee (\$100x4days)	400.00
Temporary staff (2*6*25)	300.00
Materials	500.00
Cost of compiling & editing proceedings	500
Coordination cost & local transportation	1,000.00
Cost of printing proceedings (1 000 books	1,500.00
Total for one regional training workshop	30,700.00
Total 3 regional training workshops	92,100.00

Budget: Sub-Regional Workshop  
(For 3 days, 15 participants)

Airfare and travel taxes (\$300x15 participants)	6,000.00
Board and lodging (\$30x5daysx15participants)	2,125.00
Conference room for 3 days (100*3)	300.00
Facilitator's fee (\$100x5days)	500.00
Cost of compiling proceedings	500.00
Cost of printing proceedings in 3 local languages 1000 books each	2,000.00
Materials	500.00
Coordination cost and local transportation	1,000.00
Total for one sub-regional workshop	12,925.00
Total for sub-regional workshop (12,925*3)	38,775.00

B. Budget for lobbying, advocacy, campaign and networking.

Participating of NGO's to attend 6 international parallel meetings of civil society to develop common advocacy activities of ESCR protection.		
Airfare and travel taxes (\$1,500x2*2*3)	18,000.00	
Board and lodging (\$150*2*2*3*5)	9,000.00	
Paper preparation (\$500*2*2*3)	6,000.00	
Compiling report of outcome and proposal (\$500*2*2*3)	6,000.00	
Total for 2 persons including members		39,000
Total for 2 persons including members for three years		117,000

GRAND TOTAL A+B 247,875

Ebrahim argues that this positivist approach to project development favours easily identifiable and quantitative data, known as 'product' data, over qualitative and process-orientated information, known as 'process' data. (2003c:78). This information is captured and reproduced in donor reports and used to legitimate programmes to donors and other stakeholders. However, processes which focus on the project dimensions, or

the collection of tasks that together transform activities from the development stage along to measuring outcomes and impact, provide a more coherent and integrated approach to project analysis, even though it is less tangible and more difficult to measure and generalise. Process issues include the engagement of relevant people and stakeholders, relationships between all the stakeholders concerned, and issues of social hierarchy and stratification affecting participation and engagement (Ebrahim 2003c:78-79). These processes also engage issues of capacity development, participation, decentralisation and empowerment.<sup>14</sup>

### *Step 3 Professional staff*

The professionalising of NGOs includes the increasing emphasis placed on actors having appropriate technical skills. Funding bodies are also promoting this requirement, as it is tied to the increasing push for greater efficiency and improved outcomes (Kothari 2005). Yet NGOs themselves are also actively skilling-up actors to operate more effectively, particularly in institutional sites of policy and decision-making where technical skills and knowledge are necessary such as at the United Nations. This has seen the emergence of ‘professionals’ and ‘experts’ who have specialised technical skills, knowledge and know-how to carry out NGO projects including writing project proposals, reports and evaluations (see chapter six for further discussion). Forum-Asia’s January 2004 – December 2006 Project Proposal also includes a section on internal capacity building and is referred to as “Strengthening the Organization and its Management Capacity”. This section is concerned with “enhancing Forum-Asia’s capacity as a professional regional human rights organization” through consolidating internal planning and coordination, undertaking long-term planning, and developing staff skills and resources.

With the emphasis on ‘professional workers’ and being a ‘professional’ organisation a shift is also taking place within Forum-Asia. Previously many of the actors in Forum-Asia obtained their job through knowing a senior manager such as Pii Somchai or Pii Chalida. However, with a stated desire for more technically skilled people and to be seen as being transparent in its recruitment practices, more vacant positions are being externally advertised and assessed against selection criteria documents. For example, in recruiting for the police training programme assistant, Forum-Asia advertised the

position on the internet and an interview process was used to determine the most suitable applicant for the job. This has also changed the roles of workers at Forum-Asia. Instead of having people work at Forum-Asia and determining a job description around their capabilities, or changing the job description to suit the person's interests, a clear job description is being written whereby each applicant is assessed in relation to it.

### *Spaces, power and decision-making*

Examining the discussions that took place at the planning session enables an analysis of the organisational positioning of Forum-Asia actors, and how status, hierarchy, gender and ethnicity, influence the meanings various actors ascribe to Forum-Asia's campaigns and values. One area of tension between NGO values and practice is gender mainstreaming, both within their internal structures, policies and practices, and their campaigns, projects and activities. Gender integration and women's rights is also a priority area being pursued by major donors such as the Netherlands Organisation for International Development Co-operation (NOVIB) and the Swedish International Development Cooperation Agency (SIDA). In leading the discussion on activity plans and budgets, Pii Somchai stated the need to integrate both women's rights and a gender perspective into programmes, such as those on internally displaced peoples and refugee issues. He also reminded people that this was also the view of NOVIB, a major donor of Forum-Asia, and thus needed to be addressed.

What meanings were ascribed to gender mainstreaming in Forum-Asia and how was this embedded into policies, projects and campaigning activities that shape their human rights work? Gender mainstreaming is a process to promote gender equality in the mainstream, yet in terms of how this is achieved is contested amongst scholars, practitioners, activists and feminists (Walby 2005). There are also various methods or strategies of incorporating gender into NGO human rights work, including policy, specialisation of work, training, integrating gender into planning, monitoring and evaluation procedures, lobbying, and awareness raising (Wallace 1998:163-167).

Ajan Gothom responded to Pii Somchai and suggested two ways to include a gender perspective. First, to write "including women's issues" in all project plans and second, if the issue required a specific attention to gender, Forum-Asia could hold a training



event or workshop on the issue. Deep continued the discussion and suggested that Forum-Asia needed to develop a policy statement on gender integration and women's rights which should be adopted by the secretariat and used as a basis to inform and develop campaigns, integrated into Forum-Asia's work and its member organisations. Apart from these comments little else was said on the matter during the planning session. However, it was raised with me several times during my time at Forum-Asia. During one conversation a colleague discussed their frustrations with the lack of progress in this area:

Gender integration needs to be done at Forum-Asia. People, including donors, assume because Forum-Asia is a human rights organisation that we understand gender issues, but we don't. Most workers are female, but because the Secretary General is male, Forum-Asia is thought of as a male organisation.

There is first a need to educate Forum-Asia about gender issues, and then we can instigate training programmes within Forum-Asia's network of member NGOs. Some NGO workers believe incorporating gender issues is having a seminar in a conference/workshop on women's rights, separate from other human rights issues. Even the co-ordinator handling gender integration doesn't have a good understanding of the issues. (Interview Forum-Asia actor, October 2003)

The above conversation highlights the tension in Forum-Asia apropos integrating women's rights and gender mainstreaming into its operations and campaigns. My interlocutor quoted above also stressed the differing opinions on how gender can be mainstreamed. Ajan Gothom's first suggestion of writing the phrase 'including women's issues' into all project plans conflates gender with women, and negates the complexities of how both men and women experience human rights violations differently. Such differences are underwritten by social, political and economic relations of power and connected to other subject positions such as race, ethnicity, age, class, sexuality and so on. It also raises the question of how to define 'gender mainstreaming' and its application in cross-cultural and institutional contexts (Charlesworth 2005). Ajan Gothom's second suggestion of holding a special workshop or training event has the potential to make invisible *gendered* human rights violations by separating women's experiences of human rights violations from the broader contexts in which human rights violations occur. It also has the potential to suggest that women's and men's interests are always in sharp confrontation (Charlesworth 2005:13).

The discussions that took place after people presented their three-year plans focused on achieving goals, representing the region equally, responding to member organisations, working with member organisations and networks, adequate evaluations, strategic operations, and addressing weaknesses. Apparent in these conversations were the people who did and did not provide public input. Three people overwhelmingly did, Pii Somchai, Ajan Gothom and Deep, and to a lesser extent Pii Chalida and Kang. The people that did not were the Thai female programme officers, except for Pii Chalida. My interest here is to understand this unequal pattern of voice. I suggest that organisational hierarchy, ethnicity and gender help explain this pattern of articulation and silence. Firstly, Pii Somchai, Ajan Gothom and Deep were located outside Forum-Asia's delivery programme as Pii Somchai was Secretary General, Ajan Gothom was an advisor and chairman of the Forum-Asia Foundation and Deep was a management-consultant. Occupying senior positions, they were all highly articulate and were seen in positions of knowledge, authority and legitimacy. Secondly, the planning session space, though in a relaxed retreat out of town, evoked formal relations and organisational hierarchy, whereby staff expected Pii Somchai and Ajan Gothom to speak, whilst others thought it was not their place to make comments that might be thought of as critical. Although Deep was a woman, her role was to advise Forum-Asia and she was confident and assured when speaking and felt able to contribute.

By contrast, the relative silence of the Thai female staff might be partly explained because most of these actors were junior and felt constrained to contribute or that contributions made by others covered their ideas and suggestions. Also at play, I suggest, were Thai cultural norms of social hierarchy and correspondingly appropriate behaviour of respect and authority for elders and seniors within a relationship of obligation and appreciation, commonly known as *pui-nong* as I explored previously in this chapter (Mulder 1996, 1997). These social norms were also enacted within Forum-Asia. I do not thereby suggest that these cultural norms were used by Pii Somchai or Ajan Gothom to silence junior staff and ensure their ideas dominated the discussion. Rather social and cultural norms and practices are embedded and embodied within organisations and practices, and can operate invisibly and unconsciously. Consequently junior staff possibly felt constrained in providing input that might be interpreted as questioning the authority of senior staff. As women there was also an enhanced

hierarchical difference between them and Pii Somchai and Ajan Gothom as male senior staff. Yet, outside these formal spaces, junior actors were able to engage with one another, provide input and make critical comment on people's projects, and participate in the development of Forum-Asia's project plan. This occurred both at the retreat in informal spaces discussing projects, as well as back at the office whilst convening meetings over lunch, dinner or informally around people's desks.

Negotiating social hierarchy was also highlighted in the sleeping arrangements. Before leaving for the planning session people were advised of their sleeping arrangements whereby the majority were placed two people per cabin. However, Pii Somchai, Pii Kamol, Deep, Ajan Gothom, Ajan Withaya, Ambassador Asda (advisors to Forum-Asia), and I were all given individual rooms. With the exception of myself, the people given individual rooms were accorded them due to their seniority, whereas this only partially explained why I received my own room. When I was informed of the sleeping arrangements I spoke to Tik, the receptionist, and said that I was happy to share a room, but she said that it was fine for me to have a room to myself. Based upon seniority within Forum-Asia I should not have been given an individual room as an intern, but due to my subject positions as a *farang* (Caucasian) and PhD student I was considered more senior than some other staff.

Forum-Asia actors also embodied and gave meaning to organisational hierarchy differently. For example, Kang referred to me as a 'co-worker' and insisted on the non-hierarchical relation between us at Forum-Asia. In contrast another worker viewed me as junior to the programme coordinators because I was an intern, yet more capable to discuss human rights because I was undertaking a PhD. The latter was something I certainly did not agree with! The Thai social hierarchy was also contested by Thai actors such as Pii Chalida and Nan, whom I described earlier, and others who were not Thai such as Deep, Kang, Amy, Shane and I, who saw our role as to contribute to the planning of the organisation and to make comment on people's ideas when feedback was sought during meetings.

Ultimately the spaces of the planning session like the Bangkok Secretariat accommodated different ways to negotiate relations of power. The conference hall produced more rigid zones to enact social and organisational positions whereas outdoor

spaces allowed for more open relations. By moving between these spaces actors were able to negotiate their relations, by changing their social and spatial positioning, and relations of power such as deciding whether to make comment or provide input in the conference hall or when talking to a colleague on the lawn or over a meal. Thus, the different sites of the planning session involved a spatialisation of power, both in terms of the possibilities for action, as well as contesting meanings of the organisation, and its values and activities.

## **Conclusion**

By focusing on the social and spatial production of Forum-Asia the chapter explored the meanings Forum-Asia actors gave to their organisation's goals, values and programme activities. The chapter also examined how the professionalising of organisational practice and audit cultures is given form and meaning within Forum-Asia, and connected this to the practice of human rights. The professionalism enacted by Forum-Asia aimed to improve accountability, transparency and efficiency. This involved implementing an audit culture and new managerialist practises.

Moreover, governmental techniques were implemented to produce information and knowledge that could be manipulated, codified and constituted in the form of reports, and captured in the project development of activities. This included a new administrative and accounting system, as well as project planning that orders and frames NGO practices in the forms of programme inputs, outputs and measurable targets. Consequently NGO practices become constrained and time-bound, with a focus on quantifiable measures that are developed out of specialised and technicalised skills and knowledge. The technique of project development suggests that NGOs can follow and adopt a set of neutral and apolitical practices that will result in successful programmes that are time-bound, measurable and transparent.

With organisational hierarchies, unequal relations of power operate where usually managers have greater influence to define and shape these meanings and set the organisation's agenda. The chapter illustrated that non-management actors are also engaged in defining and giving meaning to the organisation. Non-management actors are largely responsible for implementing activities and are able to influence, to varying

degrees, the direction, priorities and outcomes of projects. They develop their own networks and relations with donors, which increases their ability to influence the meanings of Forum-Asia. Pii Somchai was highly respected by staff and was able to influence campaigns and individual projects through his position as Secretary General and the use of his networks. In contrast there were different views of Pii Kamol and his abilities within Forum-Asia, and he did not have a close or interactive relationship with other staff as did Pii Chalida. Although some management actors were more influential than others, the social production of Forum-Asia and its values, goals and activities were given meaning through the everyday practices of all Forum-Asia actors.

This chapter analysed the different sites of power operating within Forum-Asia and made visible the multiple spaces in the practice of human rights. By moving between these spaces actors were able to negotiate and transform their relations of power. Yet such spatialisations of power were also based on organisational hierarchy, gender and ethnicity, and this influenced the meanings ascribed to Forum-Asia and its values and campaigns. Increasingly significant were issues of participation and decision-making within Forum-Asia although some actors had far greater agency than others. If Forum-Asia wants to democratise decision-making, specific strategies need to be introduced to foster and support broader engagement and participation by all actors. In providing opportunities for engagement such as the project planning retreat, management actors need to consider the social and spatial positioning of all actors, including themselves, and entrenched patterns of power, authority, legitimacy and hierarchy. In doing so, Forum-Asia actors need to contest relations of power to allow for meaningful participation by all actors. This was not the case in Kanchanaburi, despite the best intentions of Deep, the management-consultant, and some others.

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## Notes

<sup>7</sup> In chapter five I explore the split between Forum-Asia and the Forum-Asia Foundation. Pii Somchai was a key actor involved in the split and in 2005 he stood down as Secretary General.

<sup>8</sup> This was one of the reasons for a commissioned *Evaluation Report* in 2000 which I explore in chapter six.

<sup>9</sup> Khun Anand Panyarachum, former Thai Prime Minister, chaired the UN Panel, and Gareth Evans, former Australian Foreign Affairs Minister, was appointed as a member. Evans is currently the President and Chief Executive of the International Crisis Group. The Panel undertook to do the following:

- 1) Examine today's global threats and provide an analysis of future challenges to international peace and security, including the connections between them.
- 2) Identify clearly the contribution that collective action can make in addressing these challenges, and assess existing approaches, instruments and mechanisms.

- 
- 3) Recommend the changes necessary to ensure effective collective action, including but not limited to a review of the principal organs of the United Nations (United Nations Foundation 2004).

<sup>10</sup> Evans was in Bangkok to speak on conflict and peace, as part of the International Peace Foundation's public exchanges and dialogue by Nobel Laureates and other important international actors on world peace issues. The International Peace Foundation is a non-political and independent foundation under the patronage of 21 Nobel Peace Prize Laureates and is based in Vienna. The Foundation held a series of events called "Bridges – Dialogues Towards a Culture of Peace" from November 2003 to April 2005 in Thailand which provided a platform for Nobel Laureates to engage with public audiences on promoting peace.

<sup>11</sup> The report suggests the right of humanitarian intervention, including military, to protect people, particularly if a state fails to do so.

<sup>12</sup> See chapter six for an analysis of audit culture.

<sup>13</sup> Both private and public organisations are also utilizing Program Logic to capture their organisation in a diagram map with the view to evaluating programme outcomes and impacts. See W.K. Kellogg Foundation "Logic Model Development Guide":

<http://www.wkkf.org/Pubs/Tools/Evaluation/Pub3669.pdf>

<sup>14</sup> I acknowledge that these terms are contested in terms of their meaning, usefulness and effectiveness.

## Chapter 2

### Bangkok Spaces

[S]pace is in part a socially-constructed view of the world that both ‘reads’ and is ‘read through’ cultural and historical knowledge, amongst other things. Currently, space is not normatively considered to be a point of ideological struggle. Instead, the tendency is only to consider a line of inquiry that is limited to the fair or efficient usage of space, rather than interrogating the subjective aspects of spatial thinking and practice that are related to the re/production of power. (Allen 1999:249-250)

In the previous chapter I explored the social and spatial production of Forum-Asia and how the professionalising of organisational practice is given meaning and form. Forum-Asia represents itself as a *regional* human rights NGO. But what does ‘regional’ mean when Forum-Asia operates within a human rights regime that entails a diverse range of actors, spaces, institutions and information intersecting through and from Forum-Asia? A key space Forum-Asia enacts its agency as a regional human rights NGO is Bangkok where the Secretariat is located. In recognising the multiple spaces being constituted within Bangkok through practice, how should Bangkok be represented – as local, national, regional or international?

This chapter explores the “use and power of geographical imaginations” (McFarlane 2004:890) to construct political spaces and how the practice of human rights by Forum-Asia transgresses the bounding and bordering of political space and state territoriality. This brings into question the ontological status of scale and problematises the defining of Forum-Asia as a ‘regional’ human rights NGO. Here I illustrate, through the work of Forum-Asia how Bangkok, as a ‘place’, embodies multiple spaces and sites of power and how the professionalising of human rights NGOs is shaping the construction of political space.

This chapter is separated in three parts. The first part provides both a historical and ethnographic account of the spaces and sites of power in Bangkok. The second part focuses on the practices of Forum-Asia in constructing and giving meaning to political spaces in Bangkok. Finally, the third part considers place-based politics and the production of spaces to practice human rights.

## **Bangkok and changing meanings and sites of power**

In this section I explore how the spaces of Bangkok are given meaning by actors, and focus on how Forum-Asia both reinscribes and questions the conceptualisation of political space. I also retrace my own path across Bangkok to provide a lived reading of the city on how Bangkok's spaces and landmarks have transformed over time. I suggest that representations of place entwine with everyday politics and connect to broader social and historical imaginings of Thai politics. I also suggest that political practice is shaped by the social and geographical positioning of subjects, and their respective relations of power (Allen 2004).

Cities are not just obdurate material realities but constructed and represented through “discourses, texts and metaphors”, and produced through social relations, institutions, practices of government and the mass media (James Donald cited in (Hanna & Del Casino Jr. 2003, King 1995:215). Manuel Castells suggests cities are “historical products” and this is reflected in both their materiality and cultural meanings (1983:302). There are two dominant techniques used to represent cities: as a two dimensional text dominated by flat surfaces that are coloured, configured and connected by roads, rivers and borders; or as a space physically experienced, imagined and given meaning through practice. The first technique is illustrated by maps, which “appropriate a spatial object” by using scientific methods to define and make visible form and structural relations (Thongchai 1994:53-55). Here cartography defines spatial borders by drawing lines, and determining what is internal and external, the centre and periphery, and what is relevant or erased from the map as being immaterial. In this context maps are naturalised as apolitical, objectively capturing spatial objects, pinpointing the longitude and latitude of where cities begin and end (see Thongchai, 1994). In contrast an experiential model of representing cities emphasises the lived experience and the sociality of cities. My aim is not to prioritise one over the other, but rather bring them together to explore the spatialising of Bangkok and the production of political spaces therein.

In Thai, Bangkok is called *krungthep mahanakhon*, abbreviated as *krungthep*, but its full ceremonial name is a list of superlatives based on Sanskrit titles:



*Krungthep mahanakorn amorn ratthanakosin mahinthara ayuthaya mahadilok phopphanaphrat ratchathani burirom udomratchaniwet mahasathan amornphiman awattornsatit sakka phathorn wisanu kammarasit.* (Van Esterik 2000: footnote 1, p240)

The City of Angels, Great City, the Residence of the Emerald Buddha, Capital of the World Endowed with Nine Precious Gems, the Happy City Abounding in Great Royal Palaces which Resemble the Heavenly Abode Wherein Dwell the Reincarnated Gods, A City Given by Indra and Built by Vishnukarn. (Larry Sternstein cited in Askew 2002:16)

Bangkok symbolically and materially represents changing social, cultural and economic constructions of the nation-state and Thai culture (Korff 1989, 1993). For example, when the royal capital received a sanskritised title it was transformed from an ordinary space into a sacred site embodying Brahman and Buddhist visions whereby “dynasty, capital and polity were inseparable” (Askew 2002:16). However, with the industrialisation of Bangkok, in more recent times it has also come to represent independence, mobility and consumerism (Mills 1997).<sup>15</sup>

Historically Bangkok’s political landscape was concentrated around the Grand Palace (see Figure 7). Here space is constructed as holy or unholy, depending on spatial proximity to religious places and sites (Terwiel 1989). The significance of cardinal points is based on a cosmology whereby east is considered sacred and pure, and is reflected in temples facing east, whereas for cremations the head of the body faces west. The vertical elevation from south to north reflects increased power and authority (Turton 1978).

North of the Grand Palace is *sanam luang* (Royal Grounds) (see Figures 7 and 8) which has been used for ceremonial purposes, royal cremation, as a park and plaza, for agricultural purposes and political demonstrations. Tamarind trees have also been planted around its perimeter (Sithhiporn 2005:1). *Sanam luang* is also a fertility site where the King would annually preside over a ploughing ceremony, linking the King to the land, as both provider for the Nation and source of cosmic lifecycles. *Sanam luang* is thus a potent site endowed with royal significance and authority.



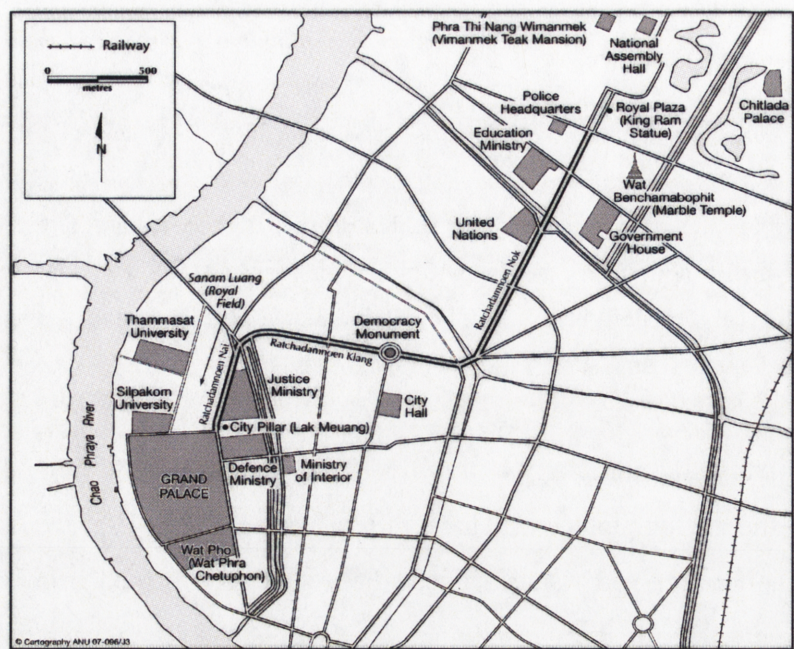


Figure 6: Map of Bangkok Old City

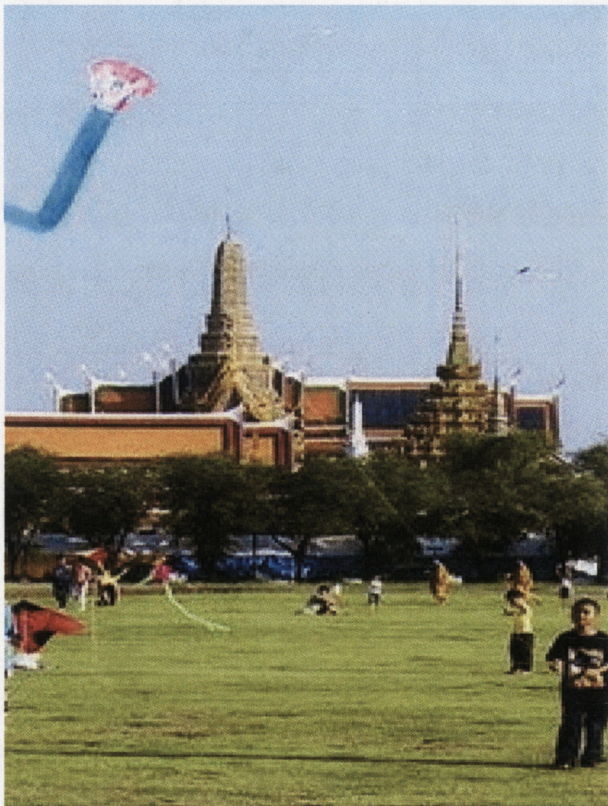


Figure 7: Sanam luang  
<http://wat-phra-kaew-bangkok.blogspot.com/2006/12/sanam-luang-or-royal-field-in-bangkok.html>

An important street connecting these royal spaces is Ratchadamnoen (royal passage) Avenue, which King Rama V built as a boulevard having been inspired by his visit to Europe in 1897 (see Figure 7). The Avenue begins at the City Pillar, travels alongside



*sanam luang* as Ratchadamnoen Nai (inner), turns right towards the old city wall as Ratchadamnoen Klang (middle/central), then passes over the *paan fa* bridge turning almost 90 degrees left and becomes Ratchadamnoen Nok (outer) travelling up to the Royal Plaza in front of the Throne Hall. Slightly north is the National Assembly and across to the right is Chitlada Palace, residence of the current King Bhumibol Adulyadej, King Rama IX. The transformation of Bangkok and the construction of roads and new royal sites coincided with the modernising of Siam (Askew 2002:33-36). Yet these 'modern' forms of authority and power were still linked with the cosmological power of north and east, as Ratchadamnoen Avenue travelled north then east and north again.

Today Ratchadamnoen Avenue is dominated by government administration: government ministries, government house, police and army headquarters, and the Supreme Court. The public buildings, in particular the ministries, followed European architectural styles, whereas educational institutions included both Thai and European architectural elements. These new structures evinced an attempt to confer an image of a modern capital city comparable to Western capitals (Korff 1993:235). Bangkok also embodies the three key symbols of the nation: the Royal palace symbolising the monarchy; the Emerald Buddha symbolising Buddhism; and the National Assembly and state buildings along Ratchadamnoen Avenue symbolising the state.

### **Sense-making and experiencing Bangkok**

I lived in the central business district (CBD) of Bangkok in the Sathon area off Sathon Road near Surasak sky train station and close to the Thaksin Bridge crossing the Chao Phraya River (see Figures 9 and 10). In this area there was a small Muslim community and my apartment was 100 metres from the mosque. The Sathon area is one block away from the Silom Road district which has transformed greatly over the past three decades. Previously the area had a large amount of privately owned land, and being close to the Chao Phraya River operated as the old western trading precinct. It has now been developed into an international business area along with tourist entertainment and residential high-rise towers (Askew 2002:115). The head office of banks, including many foreign banks, and airline services are also located here. The Silom Road district

is not a commercial hub for Bangkok, but rather a centre for national and international commerce (Korff 1993:242).

The commercial centre of Bangkok is rather Siam Square and the Ratchadamri area, together with Sukhumvit Road and the streets extending off it (Korff 1993:242) (see Figure 9). Siam Square is a key destination for tourists as well as for Bangkok residents. Here teenagers would meet and the ‘chic and hip’ would hangout. I also spent time here with friends, especially as the area was easy to travel to with the sky train being so close. The area stretches from Rama 1 Road down to Chulalongkorn University and from Phayathai Road to Henri Dunant Road. Siam Square is filled with shopping malls, international hotels and cafes and fashion stores. Here you can find McDonalds, Pizza Hut, Donut King, Armarni, Gucci and Dolce & Gabbana. However, only focusing on the international brands would be a misreading of the heterogeneity of Bangkok’s spaces. Walking down a *soi* (alley/small road) you can also discover a fabulous array of independent stores selling the latest trends in fashion including clothing, shoes and accessories that are designed in Thailand and based on Asian regional trends. There are also independent music and bookstores, small shops, fast food outlets, cafes, restaurants and cyber cafes.

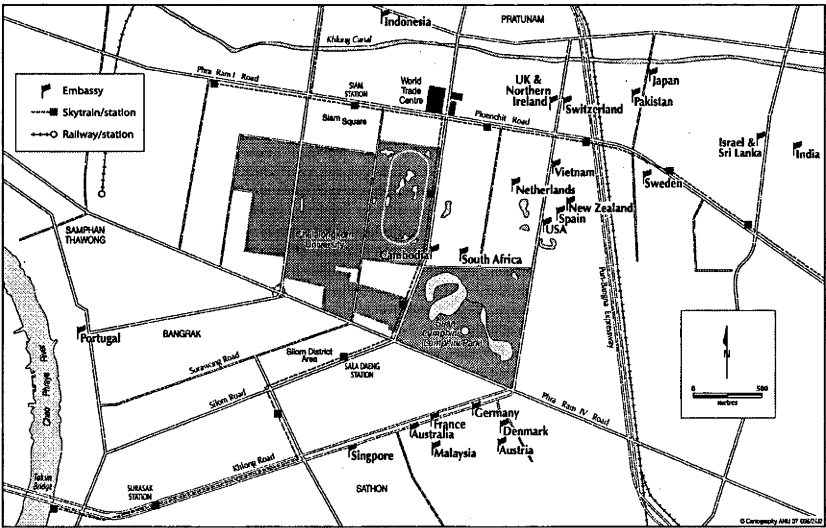


Figure 8: Map of Bangkok Commercial Area

A convenient way of travelling around Bangkok was by taking motorcycle taxis, especially for short trips or when it was stifling hot. Motorcycle taxis are usually used for short rides up and down *sois* or for longer hauls when the traffic is congested. The

skytrain and the underground train lines were recent constructions that greatly assisted travelling around central Bangkok to escape the heat, pollution and congestion of the roads, and provided an easier way for tourists to travel around Bangkok and access tourist sites, and commercial and entertainment areas. However, for some locals it was limited as it did not travel nearly far enough and was more expensive than buses.

In foreign representations of Thailand contained in tourist brochures, dominant images include beaches, cheap pirated goods, food and sex. As in my experience, the dominant image of Bangkok is rather its crowded and bustling streets, traffic jams, urban city sprawl and industrialised spaces (Van Esterik 2000, Bishop & Robinson 1988, Del Casino Jr. & Hanna 2003). These representations are contrasted with Thai constructions for foreign consumption as ‘the land of smiles’, denoting hospitality and friendliness, along with mystic and enchanting Buddhism, temples, floating markets and elegant silk products, all evoking ‘Thai culture’ in terms of a rural idyll. The relation of the city and the countryside is not just a matter of contrastive images. Bangkok has a population of approximately 9 million people (Askew 2002:1), but this varies in size depending on the time of year, as rural people move to urban cities such as Bangkok to work, but may also return for rice harvesting which takes place from September through to May. Despite this circular movement of people, the majority of the 60 million people in Thailand still live in villages (Mills 1997:56, note 2).

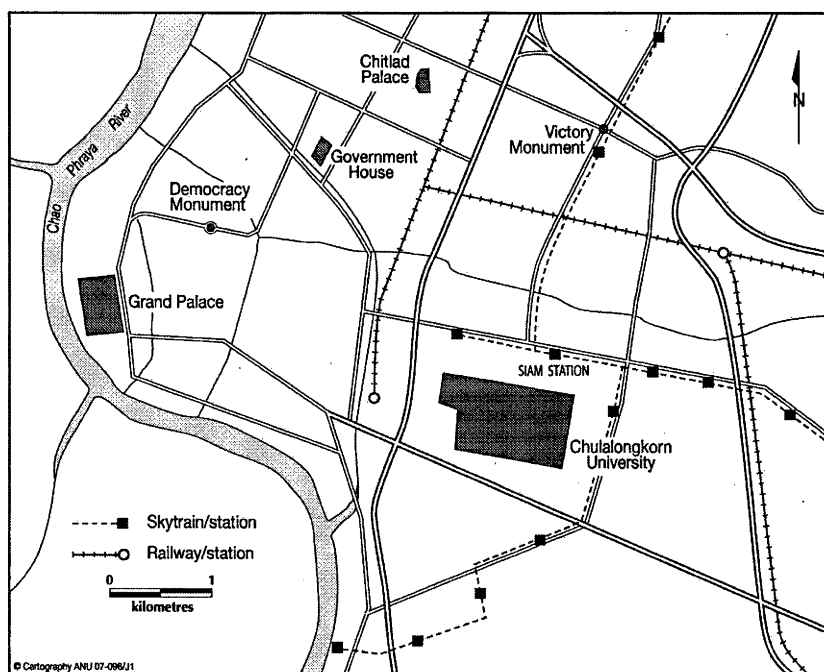


Figure 9: Map of Bangkok Overview of City

People I engaged with on a daily basis constructed Bangkok differently, depending on their social and spatial positions. For my friends, Bangkok was a good place to work and live, particularly if you were tertiary educated or wanted to “earn money”, and a place to relax, shop and feel less constrained in comparison to living in the village. Only a couple of my friends grew up in Bangkok while most came from central, northern or north-eastern Thailand. In talking to some of the workers in my apartment complex, they articulated a view of Bangkok as being expensive and busy, and some preferred living in their home towns. Burmese migrants, the majority being illegal, worked in the complex as cleaners. For them, Bangkok was a place to make money and send it home to their family in Burma. Without work permits they were restricted to the area around the complex as they received protection from the local police because the complex owner paid the police bribes. Thus they lived nearby in an apartment.

The sites of Bangkok are thus ascribed with changing meanings, whether by ruling elites to confer images of ‘modernity’ and a comparable stature to Western capitals, by political actors to promulgate ideas of democracy and to create public spaces for protest, or as a city to work and live in with varying degrees of wealth, freedom and enjoyment. Thus space and place are not ontologically given, but rather Bangkok is “discursively mapped and corporeally practiced” (Clifford 1997:186). Yet all the different spaces explored above suggest that Bangkok remains *the* “political stage on which national political and ideological dramas are played out” (Askew 2002:95).

### **Transforming Bangkok spaces**

In recognising how the political spaces and meanings attached to Bangkok change over time, I now explore the construction of political spaces used to practise human rights and the changing political landscape of Bangkok. Here the bounding and bordering of political space and state territoriality is both reinforced and questioned. The first section explores the spaces of democracy stretching from Thammasat University, to the Royal ground of *sanam luang* and extending along Ratchadamnoen Avenue to the Democracy Monument (*anusawari prachathipatai*). These sites of power are seen as representing participatory democracy and have come to signify violence and repression, and freedom and resistance. The following two sections explore institutional sites of the state and

how actors such as Forum-Asia have constructed these spaces to be more open and participatory, and to embody multiple spatial sites of power.

### *Paths of power*

2003 marked the 30-year anniversary of the popular uprising and overthrow of the military dictatorship, known as the 14 October 1973 uprising. At the height of this period hundreds and thousands of people demonstrated against the military government. The military and police, led by Field Marshall Thanom Kittikachorn, responded with violence against the protesters in an attempt to maintain military control of the government. The 1973 demonstrations in Bangkok were concentrated along the path from Thammasat University,<sup>16</sup> *sanam luang*, along Ratchadamnoen Avenue and at the Democracy Monument (Charnvit 2003).

The 2003 commemoration procession commenced at the Bo tree courtyard at Thammasat University, then passed a statue of Pridi Banomyong, the intellectual leader of the 1932 coup, and moved along Ratchadamnoen Avenue to the Democracy Monument. The procession ended with a ceremony at the 14 October Memorial, which is close to the Democracy Monument. Here pictures of the people who were killed and disappeared were placed at the centre of the ceremonial space, individuals and organisations laid wreaths with their names attached, monks prayed and chanted, and leaders and prominent activists of the time, some Ministers in Thaksin Shinawatra's government, gave speeches. At the same time these Ministers were members of a government that was committing its own human rights violations, such as the 'war on drugs' campaign and extrajudicial killings in Southern Thailand (see chapters three and four).

In *sanam luang* artists and activists also held events. Large paintings representing the uprising and struggle were displayed (see Figures 11-14) and forums at Thammasat University and elsewhere were held discussing the significance of the 1973 events. The significance of the path of the procession is that the Bo tree represents the sacred Buddhist bodhi tree, Thammasat University represents intellectual authority, Ratchadamnoen Avenue represents democracy, and *sanam luang* represents the monarchy and the relationship between spirits and the land of the nation.<sup>17</sup> Here



political landscapes and places are constituted in social, political and individual memories and imbued with present meanings (Tilley 1994:27). Forum-Asia was one organisation which laid a wreath, publicly demonstrating its support for the 1973 uprising as well as acknowledging the people who were killed or disappeared. Many of the senior figures in Forum-Asia were activists from this era and were involved in struggles for democracy, some fleeing to the jungle after the 1976 crackdown on dissidents and the return of a military regime to government. The 2003 commemoration shows why space is important to promoting human rights, and thus human rights actors who take-up the cause.



**Figure 11: Memorial Painting at *sanam luang* (Unknown artist)**  
Photo: Nathan Boyle



**Figure 10: Memorial Painting at *sanam luang* (Unknown artist)**  
Photo: Nathan Boyle



**Figure 12: Memorial Painting at *sanam luang* (Unknown artist)**  
Photo: Nathan Boyle



**Figure 13: Memorial Painting at *sanam luang* (Unknown artist)**  
Photo: Nathan Boyle



Despite the suggestion in its name, the Democracy Monument was not historically associated with democracy and popular participation in politics (Askew 2002:96) (see Figure 15). Historically the monument was commissioned by Field Marshal Phibun in 1939 to commemorate the 1932 military coup which changed Thailand from being an absolute to a constitutional monarchy. To construct the monument Ratchadamnoen Klang was widened, which resulted in local residents being evicted and trees along the boulevard being cut down (Koompong 2003:171-175). The monument includes a carved representation of the 1932 Thai Constitution on two golden offering bowls above a round tower, which is symbolically guarded by four vertical wing structures representing the armed forces. Buddhist and nationalist images are both displayed in the monument with the military protecting both the nation and religion. The monument is also framed by military power through 75 partially buried cannons around the perimeter. One notable symbolic absence from the monument is the monarchy. This demonstrates the changing representation of the nation-state with an attempt to erase the significance of the monarchy and replace it with the military. Close by the monument is the October 1973 memorial which was built to honour the people killed during several uprisings and protests against military governments in October 1973, October 1976 and May 1992 even though its name privileges the 14 October 1973 events.



**Figure 14: Democracy Monument**

[http://photos.igougo.com/pictures-photos-b334124-s2-p258758-Democracy\\_Monument.html](http://photos.igougo.com/pictures-photos-b334124-s2-p258758-Democracy_Monument.html)



Over time protests and demonstrations at the monument have transformed the meanings of the Democracy Monument. The monument now represents popular democracy and the peoples' power to contest the state. This change occurred following the events in the 1970s and especially after the 1992 Black May demonstrations (Askew 2002:96). In October 1973 hundreds of thousands of people demonstrated from *sanam luang* to the Democracy Monument, filling Ratchadamnoen Klang with a sea of people. Originally the monument was a stopping place to gather momentum and then to proceed north to institutional spaces of power, such as the National Assembly, Government House, the Royal Plaza and Chitlada Palace. The large mass of people became dispersed along Ratchadamnoen Avenue and was heading up along the northern section. The area around Democracy Monument was like a network of streets, whereas the northern area was more built-up with enclosed spaces and areas partially enclosed by bridge crossings (Charnvit 2003, Morell & Samudavanija 1981).

Outside Chitlada Palace protesters were calling for the King's support, but the military and police saw them as anti-monarchists and portrayed them as attacking the King, as they were attempting to flee the area into the palace as the King opened the gates to provide protection. The military and police responded by firing on the protesters. The attacks then spread to the Democracy Monument and surrounding areas, where over 100 people were killed. Despite the end of absolutism, the King continued to wield much symbolic authority and pragmatic power as the King intervened and the military leaders were exiled from Thailand. Following the removal of the coup, protesters were represented as upholding the Nation and Monarchy, and the King allowed *sanam luang* to be used for ceremonies for the protesters killed (Charnvit 2003, Morell & Samudavanija 1981).<sup>18</sup>

The Black May demonstrations of 1992 against the government of General Suchinda Kraprayun were the largest since the 1973 uprising, with an estimated half-million people participating in demonstrations in Bangkok and other urban areas. In response General Suchinda and the military opened fire on the protesters where more than a hundred people were killed or disappeared, and many were injured and arrested. The King ultimately intervened and appeared on a nationwide television broadcast instructing General Suchinda and Chamlong Srimuang of the Palangdham party to end the conflict (Suchit 1993:220). Other protests have used this site to demonstrate against

the government, such as protests against the disappearance of Khun Somchai Neelaphajit and the more recent demonstrations in 2006 surrounding Prime Minister Thaksin and his government. The significance of the Democracy Monument lies not just in its symbolic links to democracy, but its geographic location proximate to national sites of power such as the parliament and the monarchy, and evolving a history of tensions between people and the state, monarchy and military.

As the University of Moral and Political Science, Thammasat University also became an important site for political organisation and protest. This originated during the 1950s when a Peace Movement developed on campus. Thammasat University was also a prominent site during the October 1973 uprising, as well as the ‘October 1976 massacre’ where students, activists and others demonstrated against Field Marshall Thanom’s return to Thailand (he was exiled from Thailand following the overthrow of the military government in 1973). On 7 October 1976 right-wing groups gathered at *sanam luang* and then stormed the grounds of Thammasat University and fired bullets, grenades and missiles into the protesters, killing some, whilst others were beaten, mutilated, burnt and hung from the tamarind trees in *sanam luang*, in front of cheering crowds (Bowie 1997, Thongchai 2002). It should be remembered that *sanam luang* (the Royal Grounds) is only metres away from the Grand Palace.<sup>19</sup>

During this period military and right wing groups, such as the Red Gaurs (*krathing daeng*) and Village Scouts (*luk sua chao ban*), constructed leftist groups, including students, labour, unionists and other social activists as Communists and threats to Thailand. Parallel to this political shift in Thailand were Communist threats in the region from Cambodia and Vietnam. Here Communism does not so much refer to an ideology or set of economic and political practices, but rather simply ‘the enemy’, external to Thai-ness. Communism is thus a “created category between Thai-ness and others” (Thongchai 1994:169-170).

Thai identification between person and place is expressed through identification of blood and soil, and premised upon core national symbols and the values of the ‘three pillars’. Turton suggests that labelling of leftist groups as Communists was part of the “forceful and violent sanctions” used to maintain domination over individuals or groups that are opposed to the ruling groups or who follow social scripts which can be

perceived as dangerous. More explicitly, it operates as a form of rule through the mechanism of fear (Turton 1984:51,60).

The demarcation between Thai and others is highlighted by the Border Patrol Police (BPP), which was formed in the 1970s to fight Thai Communism in rural areas. The BPP did not just operate along the borders of the country but also well within its geographic borders to police Thai-ness. This included programmes among the minorities to teach them the central Thai language and introduce the Thai national flag, images of the Buddha and pictures of the monarchy. In villages the BPP also organised counter insurgency activities. Here the language of body politic was used to evoke notions of external threats beyond the borders of Thai-ness, even within the state borders (Thongchai 1994:170).

*Sanam luang* is also a significant site for protests. James Ockey reflects back to the 1950s and the street protest on 22 January 1956 which he suggests “marks perhaps the longest protest march ever held in Bangkok” whereby thousands marched from *sanam luang* to the Democracy Monument, Parliament and then on to Prime Minister Phibun’s residence (Ockey 2002:107-112). *Sanam luang* became Thailand’s Speakers’ Corner and attracted a wide variety of speakers including opposition parliamentarians, reporters, street vendor groups, and provincial and prospective politicians. This lasted for approximately six months with audiences numbering tens of thousands but usually averaging thousands. Initially, forums were organised to discuss government policies and legislation, such as Thailand’s first *Social Security Act 1954*, however, this changed to street politics involving marches, demonstrations and calls for political reform (Ockey 2002:109). Another significant demonstration at this site which captured the nation’s attention was by the National Assembly of the Poor in 1997. Bruce Missingham (2003) describes how *sanam luang* was used to stage a rally where protesters marched from Government House and then along Ratchadamnoen Avenue to *sanam luang*. Missingham describes how “enacted displays of protest street theatre” was used to gain great support and understanding from middle-class Bangkok residents (2003:154).

### *National spaces*

As an intern with Forum-Asia I attended a Senate hearing at the National Assembly in Bangkok and as part of my research I interviewed two Senators. Interestingly the National Assembly is not a prominent landmark in Bangkok and is not on the tourist map as a place to visit. It was built in the early 1970s behind the Royal Plaza and the Throne Hall on a small street opposite the zoo. There is no link connecting it to Ratchadamnoen Avenue, which is in contrast to the Royal Thai Army headquarters located prominently on Ratchadamnoen Nok. Thongchai Winichakul argues that the King Rama VII statue at the entrance to the National Assembly represents the monarchy as supporting democracy since it relinquished its power after the 1932 military coup.<sup>20</sup> This narrative has been absorbed into Thai nationalist histories such that Parliament is positioned within a particular hierarchy headed naturally by the King. Since the building was designed and built during the era of military rule, the statue also symbolically illustrates a relationship between the military and monarchy (Thongchai 1999).

The Senate hearing I attended concerned the disappearance of a Muslim human rights lawyer, Khun Somchai.<sup>21</sup> An important response to raise concerns about Khun Somchai's disappearance was the Senate Committee on Foreign Affairs public forum on 1 April 2004. Senate public forums are seen as an important process in debating 'state affairs', and scrutinising government policies. However, this was becoming increasingly more difficult with government or opposition support developing within the Senate, even though Senators were supposed to be independent and politically unaligned as articulated in the 1997 Constitution.<sup>22</sup> The public forum examined human rights violations in Thailand, and focused on southern Thailand where martial law had been in place since late 2003. Participants in the forum included politicians, state officials, NGOs and academics.

Khun Somchai's disappearance was initially constructed as a local issue confined to southern Thailand where he lived and worked, even though the disappearance occurred in Bangkok. However, the work of human rights NGOs, Senators, activists, academics and the media redefined his disappearance from being a southern localised issue to a national issue concerning violence in southern Thailand. Here the representation of issues as local, national and international are constructed and given meaning through

discourses, powerful images, and symbolic and material sites of power. The use of the National Assembly not only sustained the media's attention but also nationalised the matter, and illustrates the types of meanings Bangkok is endowed with. As the material, political and cultural dominant site of Thailand, significant Thai sites of power, such as the parliament and the monarchy are located here. Also located in Bangkok are influential regional and international human rights organisations such as the United Nations, Amnesty International and the International Commission of Jurists. Here a place-based emphasis on politics suggests that issues are not solely given meaning territorially, rather they are defined by the multiple sites of power connecting and intersecting through contested political spaces (Amin 2004:41).

### ***International spaces***

International sites are also produced within Bangkok such as embassies and consular offices, which are located near the CBD area around Sathon, Withayu, Ploenchit and Sukhumvit Roads (see Figure 9). Political actors use these spaces to lobby foreign governments, particularly when human rights actors want states to condemn the practices of other states. Prior to the disappearance of Khun Somchai the diplomatic community in Thailand was already concerned about the escalating violence in southern Thailand. Since 2003 Thai authorities embarked on a military campaign against separatists in southern Thailand, which has seen the burning of Buddhist temples and the killing of monks and lay people. A prominent event receiving international attention was on 30 August 2005 when 131 Muslim Thais from Narathiwat in southern Thailand fled to mosques in Kelantan in northern Malaysia seeking protection as they feared persecution from Thai security forces. A public fray emerged between Thai and Malaysian officials over how to handle the situation, especially after Malaysia allowed the UN High Commissioner for Refugees (UNHCR) to interview them. Despite the involvement of the UNHCR and the Thais fleeing to another country, the Thai government articulated the situation as “an internal Thai affair”, in an attempt to delegitimize the internationalisation of the situation and restrict non-Thai state actors becoming involved (*The Nation* 7 September 2005).

The diplomatic community were also frightened about the violence escalating as a result of Khun Somchai's disappearance (Interview April 2004). With the nationalisation of

Khun Somchai's case, Pii Somchai from Forum-Asia began lobbying the diplomatic community in Bangkok. Forum-Asia hoped that by lobbying states that have close ties with Thailand, such as the United States, they would publicly condemn Khun Somchai's disappearance, and urge an investigation to find him and bring his perpetrators to justice (Interview 2004). Engaging embassies is also part of Forum-Asia's strategy for matters to be deliberated at the United Nations. Information supplied to embassies can be fed back to their foreign affairs department and government, and then sent to the country's mission at the UN for advocacy purposes, to discuss in Committees, to support a UN fact-finding mission, or to develop Security Council or General Assembly resolutions (Interview April 2004).

The United Nations also has a major presence in Bangkok to support its work in the Asia and Pacific region through the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and other UN bodies located on Ratchadamnoen Nok. These regional offices coordinate with head offices in New York and Geneva on programmes, policy and diplomatic work.<sup>23</sup> In Bangkok actors engage with the UN to advocate issues and make representations on government policy or activities. In the case of Khun Somchai, representations were made to the United Nations High Commissioner for Human Rights representative and this information was fed back to the main office in Geneva (Interview 2004). Human rights groups also took Khun Somchai's case to the United Nations Human Rights Committee session in Geneva in 2004, where it was debated and the Committee expressed concern over the disappearance of a human rights defender. The information was then used in national campaigns in Thailand to influence the government to find Khun Somchai and apprehend his killers.

A territorial approach to space reinscribes the ideas of enclosed spaces with clearly defined boundaries and borders. In this respect Bangkok is represented as a national space, endowed with material and political power, as the centre of government and politics. However, an alternative reading of space suggests that places are constituted through intersecting spaces and relations of power. The case of Khun Somchai's disappearance connected "plural spatial relations" (Amin 2004:38) within the one place of Bangkok: southern Thailand, the national political arena and international human rights sites. Thus the practice of human rights was geospatially dispersed from the site of where Khun Somchai disappeared in Bangkok. The naturalisation of territorial

borders are blurred, contested and disrupted as Bangkok embodies local, national and international spaces simultaneously linked by spatial geographies of power.

### **Reworking place-based politics**

Stemming from my analysis of Forum-Asia practising human rights and the construction of political spaces in Bangkok, there are three issues which have implications for understanding political space and the practice of human rights: the social production of political spaces; the dominant scalar model used to conceptualise space; and the ability to articulate alternatives to the hegemonic ordering of space. Despite the specificity of space, some universal patterns pertain such as left and right, central and marginal, in and out, beyond and within (Agnew 1994:87). Terms such as local, global or transnational conventionally represent hierarchical alternatives in conceptualising spatial relations. Political space is typically conceptualised in terms of bordered levels and nested hierarchies, naturalised through the doctrine of national sovereignty and its geographic signifier territoriality. Sovereignty spatialises the polity hierarchically, positioning the state above and encompassing society (Ferguson & Gupta 2002). All these concepts have a political resonance in constructing the ‘body politic’: the mainstream from the peripheral, the centre from the margins, and inside and outside the state.

By focusing on the spaces Forum-Asia operates within in Bangkok I bring into question territorial demarcation, which is premised upon the state, and a scalar reading of space and its relationship to place. Here I draw upon the influential work of geographers such as Doreen Massey (1994, 2004, 2005), J. K. Gibson-Graham (2002), Sallie Marston (2000, Marston et al. 2005, Marston et al. 2007) and Ash Amin (2004) to explore the relational constitution of place and space. My interest is not to abandon the language and meanings ascribed to space, such as local, national and international, but rather to demonstrate that a focus on place provides for an analysis of the multiple spaces and sites of power constituted *within* place.

Space is no less real than place and I reject the idea that “local *place*” is more meaningful than space (Massey 2004:7). Massey argues that spaces are never still and are imbued with power, meaning and symbolism, reflecting an ever-shifting landscape



of power and signification. Thus the production of space involves multiple spaces “cross-cutting, intersecting, aligning with one another, or existing in relations of paradox or antagonism”. However, the issue of power is not just confined to the geographic boundaries of the production of space, but also stretches outwards and beyond to local and global configurations of social practice, and inside and outside constructs of space (Massey 1994:2-5). I suggest that place is characterised by porous boundaries and inter-connections rather than by fixed and static borders (Massey 1994, Allen et al. 1998, Painter 2008). Here there is an emphasis on the *routes* that connect places with other places, spaces and to other times (Massey 1994, Castree 2003).

I suggest that such a reading of ‘place’ recognises the territorial nature in producing places, whilst also recognising the “relational connectivity” in multiple spaces connecting to place (Amin 2004:34). A reassertion of place has also been argued by Gibson-Graham (2002) and Escobar (2001). Gibson-Graham has focused on the politics of economics within globalisation discourses to pursue an “active politics of place” and to bring agency to place (2002). Escobar also highlights the importance of “local models of nature and cultural practices ... [by] linking identity, territory and culture at local, regional, national and transnational levels”. Further, it is through these processes that place-based movements are pursuing counter-hegemonic globalisation (2001:163). This reading of place questions the persistent idea that territories are bounded units constructed by aerial views, and is a distinct form of spatiality, different from relational geographies (Painter 2008:348). Joe Painter suggests this persistence is maintained through a “cartographic anxiety” in “desir[ing] to make geographical space legible” through technologies such as maps (2008:346,348).

In emphasising place-based practice in constituting political space, I recognise that ‘place’ is a site to negotiate and contest meanings and representations. This approach moves away from essential or universal understandings of place (Massey 2004:7), such as the scalar model and the hegemonic idea of the local and global. Rethinking the relationship between space, place and scale is based upon a relational understanding that sees geographical entities such as cities and conceptual frames such as local, national and international as mutually constituted through social relations that extend across space and manifest in material, discursive and symbolic forms (Allen & Cochrane 2007, Massey 2004, Amin 2004, Keith & Pile 1993).

The symbolic, material and political force in territorially defining practices is illustrated by Forum-Asia defining itself as a 'regional' human rights organisation. This sense of meaning instils the idea of space being tied to a fixed geographic territory and the countries that fall under the umbrella 'Asia'. Forum-Asia's structure is also based on member organisations from the Asian region. These members are talked about as being 'local' members who work within a specific country. In working with 'local' members and taking-up 'regional' issues, Forum-Asia thus works between the local and (inter)regional geographic space, which is determined and defined by state borders and represented as a geographic scale. This in turn suggests that actors such as Amnesty International and Human Rights Watch, which operate in multiple geographic territories and have multiple regional/local offices, are 'international', which is also represented as a geographic scale. Here the language of territoriality and scale is used to frame spatiality. This seems reasonable enough, but what happens when actors located in a place, such as Bangkok, operate in multiple spaces, such as the national, local and international? How should these actors and political spaces be conceptualised? The scalar model, which naturalises state borders and establishes predetermined frames for analysing geospatial practices, would need to slip between different scales to conceptualise such practices. Yet the scalar model is not amenable to this task when such actions occur within the one place.

The different types of spaces and sites of power produced within Bangkok bring into question the territorial fix in conceptualising political space. The 'paths of power' of Bangkok emphasised the significance of agency in changing the meanings and symbolic force of places, such as *sanam luang*, Thammasat University and the Democracy Monument into sites of protest, participatory democracy and freedom. However, a historical reading of these changed meanings also illustrates that the same sites of protest are not always afforded the same political significance, suggesting the importance of discourses, narratives and representations of the protests taking place. For example, the 1973 uprising was represented as protecting Thailand and instilling freedom and democracy, whereas the 1976 events were represented as against Thailand and the need to repress Communism through military rule. In comparing these two events the same sites of protest came to symbolise freedom and resistance in 1973 and repression and violence in 1976. Here we can see that the political spaces of Bangkok

are only given form and meaning in particular contexts and represented through narratives about Thai political histories.

I suggest that an emphasis on place brings into the frame geospatial and relational issues of power. John Allen maintains that it is necessary to recognise the conditional nature of power, based upon actors' spatial positions and relations of power (2003, 2004). Allen points out that the work on governmental restructuring, state territorialisation and the shifts in understanding political power (see Brenner 2004), maintains a focus on power shifting between naturalised scales such as national, urban and regional. Here the devolution of power or new forms of governance do not bring into question issues of authority and the "spatial fix" of power (Allen 2004:27-30). Thus "[i]n seeking to grasp the whereabouts of government, it is not the simple language of centres, hierarchies and dispersions which reveals its presence, but rather the diverse, crosscutting arrangements through which power is exercised (not possessed)" (Allen 2004:29). For example, in turning ideas of human rights into legal form the exercise of power is not in the United Nations or National Assembly per se, but rather exercised by the various actors operating within these spaces. These actors operate in both distantiated and proximate spaces such as their office, the Internet, government and intergovernmental sites, through publications, the media, campaigns, forums and events in public spaces. It is by operating within such multiple sites of power that political spaces are constituted both materially and discursively.

### **Bangkok and place-based political spaces**

This chapter explored the "use and power of geographical imaginations" (McFarlane 2004:890) to construct political spaces and how the practice of human rights by Forum-Asia transgresses the bounding and bordering of political space and state territoriality. By focusing on the daily practices of Forum-Asia and the political history of Bangkok, I showed how Bangkok was a place endowed with symbolic and material representations of power, through practice, discourses and texts, which change over time and are given new meanings. For example, the royal sites of power of *sanam luang* and Ratchadamnoen Avenue were being transformed into public spaces to contest the state and to promulgate ideas of democratic participation. This path of power extended to Thammasat University and the Democracy Moument through the 1973 uprising and

1976 repression. These sites of power in Bangkok represent and give meaning to violence and repression, and freedom and resistance.

An emphasis on *practice* to explore the construction of political spaces in Bangkok brings into question the dominant spatial-scalar model of space as a set of hierarchically nested, vertical scales. Places such as Bangkok are constituted through intersecting spaces and relations of power and embody local, national and international spaces simultaneously linked by spatial geographies of power. A scalar approach to conceptualising political space maintains a territorial fixation, assume the naturalised position of the state. Yet in using spatial language it is necessary to be specific about the spatial geographies actors operate within so as not to abstract place-based practises. For example, Forum-Asia uses the language of 'regional' to explain what type of organisation it is, as well as 'international' to illustrate some of the spaces it operates in such as the United Nations. In the first instance Forum-Asia reproduces the scalar model by focusing on a territorial understanding of space. But it also transgresses scalar politics by engaging in multiple spaces within Bangkok and intentionally making human rights claims public by engaging in the international human rights regime. My analysis of Bangkok spaces has provided the basis to frame the debates in the next chapter in terms of how Forum-Asia responded to an act of state violence.

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## Notes

<sup>15</sup> For a detailed historical account of the construction of Bangkok see Askew (2002) and Wyatt (2002).

<sup>16</sup> Thammasat University, formerly known as the University of Moral and Political Science, was established in 1934 and is located on the west side of *sanam luang*.

<sup>17</sup> I am grateful to an unnamed Thai academic who explained this to me when I was at *sanam luang* and looking at the paintings.

<sup>18</sup> I was fortunate to hear stories from activists I met during the commemoration and events in 2003.

<sup>19</sup> In Thai history the 1973 event is represented as a struggle for democracy and for the Nation, whereas the 1976 massacre is not afforded the same treatment and prominence. There is currently a movement in Thailand attempting to link the 1973 and 1976 events together as part of a Thai historical narrative with the aim to publicly recognise the significance of the 1976 event and to honour the people who were beaten and killed. However, the movement's ideological refocusing of October 1976 as about freedom/democracy versus dictatorship/military avoids key questions about the roles and involvement of agents of the state in the 1976 event, in particular the existence and legitimisation of right-wing and anti-Communist groups, and Field Marshall Thanom's ability to return to Thailand and be ordained as a Buddhist monk (Thongchai, 1999, 2001, 2002).

<sup>20</sup> King Rama IV abdicated the throne in 1935 after losing power from the 1932 coup.

<sup>21</sup> See chapter three for a detailed examination of this case and the promotion of human rights.

<sup>22</sup> Thailand has a new Constitution which came into force in 2007.

<sup>23</sup> In New York is located the UN Secretariat, including the Security Council, and the Economic and Social Council. In Geneva is the headquarters of the Office of the High Commissioner for Human Rights (UNHCHR), the Office of the High Commissioner for Refugees (UNHCR) and the International Labour Organization (ILO).

## Chapter 3

### State Violence: The Case of a Missing Human Rights Lawyer

**Disappearance is indefensible: A lawyer who has defended suspected terrorists has gone missing and large segments of the community suspect government elements may be responsible. These doubts must be laid to rest.**

It is a week today since lawyer Somchai Neelaphaijit was last seen. His family, friends and colleagues at his law firm say they have no idea as to his whereabouts or fate. The police as well seem to have no clue as to this mysterious disappearance.

Mr Somchai was last seen ... on Friday [12 March 2004] about 8pm in his Honda Civic sedan.

...[It is] thought Mr Somchai's disappearance could be traced to his legal activities. The lawyer, chairman of the Muslim Lawyers Association, successfully defended four Muslim men accused of torching 36 schools in the southern border provinces in 1993...

...Mr Somchai had planned to fly to Narathiwat province [in southern Thailand] on Sunday [two days after he disappeared], where he was due to appear before the court to defend four suspected members of the Jemaah Islamiyah terrorist groups charged with planning bomb attacks on foreign embassies in Bangkok and tourist spots around Thailand...

Mr Somchai's disappearance could have gone unreported like that of so many other Muslims under mysterious circumstances in the three southern border provinces of Yala, Pattani, and Narathiwat. There have been widely reported suspicions that Mr Somchai was kidnapped by government officials acting on their own behalf because they were unhappy that he was defending, in court, suspected terrorists.

...Fueling the rumours ... has been the almost apathetic response to this case from government leaders, Thaksin Shinawatra, prime minister, and his deputy in charge of security affairs ... [who] appear content to accept the police line that the disappearance is family-related. Mr Thaksin has suggested that Mr Somchai might have had a quarrel with his wife, a comment that drew a sharp rebuke from ... [his wife].

With pressure mounting for action from human rights advocates, Muslim organisations and some senators for a thorough investigation, the government does appear to be slowly changing its tune... (*Bangkok Post* 19 March 2004)

The above vignette is an opinion article from the *Bangkok Post* and is about the disappearance of Khun Somchai Neelaphaijit,<sup>24</sup> a lawyer and human rights activist involved in representing alleged Muslim terrorists in Thailand, advocating the end of martial law in southern Thailand (which has been in place since October 2003) and criticising the military's use of force in the southern region. Khun Somchai was also

Muslim. The article links Khun Somchai's disappearance to similar events occurring in southern Thailand, although these were not publicly reported and received an apathetic response. The article brings to the forefront pertinent issues that are being heatedly discussed and contested in Thailand: human rights, the rule of law, justice, and relations between Muslim Malays in southern Thailand and the state.

I consider the disappearance of Khun Somchai to be an act of state violence. This chapter explores how Forum-Asia gives meaning to Khun Somchai's disappearance through a human rights framework and contests the Thai state under a 'climate of fear' in Thailand during Prime Minister Thaksin's government. The first part of the chapter situates the disappearance in the field of state violence in Thailand and describes the events surrounding the disappearance and the responses to it. I then analyse the responses in making human rights claims public and the importance of personal networks, media and electronic communication to mobilise political action, the permeability of such networks across the borders of NGOs and the state, and the salience of the Muslim-terrorist conjunction in this case. I illustrate how the professionalising of Forum-Asia, in terms of its activities, access to resources and technical skills were crucial to Forum-Asia's ability to respond to Khun Somchai's disappearance.

### **A 'climate of fear': state violence and sense-making**

*What we are afraid of is fear. We don't want to be so afraid that we do not think about the future, we don't want to be so afraid that we cannot do anything.* (Angkhana Wongrachon, wife of Khun Somchai) (Human Rights First 2005)

State violence is expressed and materialised in various forms, in symbols (Nagengast 2002), through everyday life (Kleinman 2000, Scheper-Hughes 2002), and state-sanctioned terror such as torture and death squads (Sluka 2000). State violence is enacted towards populations, at sites where relations of power are contested and resisted (Robben & Nordstrom 1995:5). State violence is often represented internationally in the English language as instilling a 'climate of fear'. This term in the political lexicon highlights the function of state violence as a method of rule (Nagengast 1994:114). Wole Soyinka, in his Reith Lecture *Climate of Fear* (2004), suggests that state violence is a predominant theme of our lives, a pervasive aspect of world politics, no longer only under brutal regimes such as Nigeria where he grew up. Human rights groups and

actors, journalists and academics used the term ‘climate of fear’ to describe the situation in Thailand under the previous Prime Minister Thaksin. This includes not only the state, but ‘dark forces’ and ‘influential figures’ committing violence in the form of extra-judicial and summary killings, torture and disappearances, as well as government-sponsored harassment and intimidation.

A ‘climate of fear’ evokes images of brutality, excessive force and despotic rule specifically directed towards opponents of the government, police and military. Yet its meaning extends beyond the specific acts of violence being committed, generalises the effect of such violence, and assumes that such fear is always functional. In adducing a ‘climate of fear’, we can occlude how violence is given meaning and contested, and how it is manifested within everyday lives. As Robben and Nordstrom argue, even the most horrific acts of aggression should not be conceived as isolated exemplars of a ‘thing’ called violence, but rather, such acts reconfigure lives, notions of identity, potential actions and reactions, and memories of the past (1995:5).

To understand the distinctive forms of state violence, it needs to be historically contextualised in terms of how it is practised and given meaning and legitimacy (Ellis 2004:108, Blok 2000:24-26). Thai identity and nationhood has been constructed using internal and external enemies to designate difference and otherness (Thongchai 1994:169). Constructions of Thai identity and nationhood are reinscribed by the practice of state violence and endow that violence with meaning and legitimacy. In the following chapter I illustrate how the 2003 ‘war on drugs’ is an example of state violence that is given meaning and legitimacy in Thailand. This is part of the socio-political context in which Khun Somchai disappeared.

Moreover, Khun Somchai’s disappearance also occurred at a time of heightened international tensions around ‘national security’ and ‘global terrorism’ as it was played out in southern Thailand. The disappearance of Khun Somchai was not an isolated incident. Nearly twenty human rights defenders have been killed in the past six years. Two other prominent cases include Phra Supoj Suwagano, a Buddhist monk, who was stabbed to death in June 2005 after he exposed illegal logging near his monastery in northern Thailand, and Charoen Wataksorn, a fisherman and long-time environmental campaigner, who was shot dead in June 2004 after reporting illegal land transfers to the authorities (Amnesty International 2006).

### **Disappearance of Khun Somchai: the role of Forum-Asia**

Khun Somchai was a prominent human rights defender, chair of the Muslim Lawyers Association and vice-chair of the Human Rights Committee of the prominent Law Society of Thailand (*sapaa ta naay kwam*) (LST).<sup>25</sup> Khun Somchai advocated for sustainable peace in southern Thailand and advocated for the rights of Muslims. On the evening of Friday 12 March 2004 in Bangkok, Khun Somchai disappeared. He was last seen near the Chaleena Hotel in the Ramkamhaeng area of Bangkok and his car was later found abandoned near the Mor Chit 2 bus terminal. Khun Somchai was at the time representing four men for alleged involvement in a Jemaah Islamiah plot to blow-up foreign embassies in Bangkok in 2003.

His disappearance and the response were tied to the violence in southern Thailand, which began on 4 January 2004 when an army depot was attacked. The government responded to this attack by announcing martial law in the southern provinces of Songkhla, Pattani, Yala and Narathiwat and arrested people accused of national security, terrorism and insurgency offences. Five people were charged in February 2004 with “national security, conspiracy to commit rebellion, to recruit people and gather arms to commit rebellion, to function as a secret society and to act as a criminal gang” (Human Rights First 2004). Khun Somchai represented them. On 4 March 2004 Khun Somchai made allegations that his clients were being tortured and he sought a court order for them to receive a physical examination and to be removed from the Police Crime Suppression Division and be relocated to prison.<sup>26</sup> The judge made an order for both requests.

There are conflicting views as to the causes of the re-emergence of violence in southern Thailand. The dominant view, as reflected in the media and analysis made by highly respected organisations such as the International Crisis Group, argue that the violence stems from discrimination against the ethnic Malay population and forced assimilation policies implemented by the national government. An alternative perspective suggests that Thaksin has played a significant role in provoking conflict in the region, both in response to replacing the “network monarchy” (McCargo 2005) in the region with his own to support personal, political and financial interests, as well as to stir up nationalist sentiment for political gain.<sup>27</sup>



With martial law in place Khun Somchai publicly raised concerns of police torture and widespread impunity for their actions. He advocated the rule of law, justice for Muslim suspects accused of terrorism and treason, and publicly criticised state officials for excessive and unnecessarily violence in law enforcement. This included obtaining 50,000 signatures from around the country to support an end to martial law in the South. Consequently his work placed him in constant conflict and tension with security forces in southern Thailand, to the point of being placed on a state ‘terrorist list’ and receiving death threats. On 11 March 2004 Khun Somchai lodged a formal complaint with the Ministry of Justice detailing claims of torture and abuse against his clients. The following day Khun Somchai disappeared.

### **Responses to Khun Somchai’s disappearance**

One Friday evening in early April 2004, the Secretary General of Forum-Asia, Pii Somchai Homlaor, discussed with me how Forum-Asia became involved in Khun Somchai’s case. The description below is taken from my interview with Pii Somchai. Pii Somchai first explained how he came to know Khun Somchai. Pii Somchai is a lawyer and an active member of the LST. In 2002 Pii Somchai along with a group of other lawyers decided to run for election on the LST board. Due to Pii Somchai’s human rights work and advocacy for environmental protection, his electoral ticket won the majority of seats. Whilst on the board Pii Somchai helped establish a human rights committee of the LST, with the aim of educating lawyers about human rights issues so that they would provide assistance to people whose rights had been violated. Pii Somchai was the chair of the human rights committee and Khun Somchai was the vice-chairman.

Two nights after Khun Somchai’s disappearance his colleagues contacted Pii Somchai on his mobile phone and told him that Khun Somchai was missing. From then Pii Somchai believed that Khun Somchai had ‘disappeared’.<sup>28</sup> Pii Somchai then contacted the president of the LST, Sak Kosaengruang, a very senior lawyer and Senator. Contacting Senator Sak was the first stage in building links between civil society actors and state institutions and officials, so as to improve the effectiveness of the campaign to find Khun Somchai and bring his perpetrators to justice.

The following Monday, 15 March 2004, the LST took the matter of Khun Somchai's disappearance to the Senate, which provides the opportunity for public debate on important issues, which are in turn reported in the media. The Senate's debate on Khun Somchai's disappearance resulted in public criticism of the offence, raised the possible involvement of government or state officials, deplored the continued human rights violations under the current government and established a special committee to investigate Khun Somchai's disappearance, comprising senior lawyers and members of the Muslim Lawyers' Association. The LST also established a panel to investigate the disappearance. State officials concerned about the disappearance also met with Senators to discuss ways of pressuring the government to ensure proper cooperation by police officials with the investigation, and to quickly find Khun Somchai.

On the same day Forum-Asia's coordinator for human rights defenders worked with the Webmaster to construct an "alert" section on Forum-Asia's website (see below). The website was to inform the public and concerned groups about the progress of the investigation into Khun Somchai's disappearance, as well as to be an online resource for the media and concerned groups. Regional human rights groups also developed websites to publicise the disappearance and place pressure on the government.

Initially Prime Minister Thaksin ignored the allegation of the disappearance and instead suggested that Khun Somchai left Bangkok to escape a family spat (*The Nation* 17 March 2004:3). Senator Thongbai Thongpao, a prominent human rights lawyer, raised publicly concerns about the disappearance and linked it to other human rights violations being committed by the government such as the 'war on drugs' campaign. Senator Niran Phitakwachara, chairman of the Senate Committee on Social Development and Human Security, believed that Khun Somchai's disappearance and the government's handling of it was a "dangerous sign" for Thai society, and suggested connections between Khun Somchai's disappearance and the disappearance of labour leader Thanong Phoan, 10 years before (*The Nation* 17 March 2004:3).

The Human Rights Commission, the media and civic groups joined Senators in criticising the government and pressuring for a government investigation (*The Nation* 19 and 20 March 2004). The Asian Human Rights Commission, a regional human rights organisation based in Hong Kong, demanded that Prime Minister Thaksin order an independent inquiry into the disappearance (*The Nation* 20 March 2004). The Thai

Coordinating Committee for Human Rights linked Khun Somchai's case to broader issues of human rights violations in southern Thailand and urged the government to establish an independent body to investigate "missing persons amid growing fears of abductions and killings" in southern Thailand (*The Nation* 25 March 2004).

The international perception of Thailand also influenced the government's response to Khun Somchai's disappearance. Senator Omar Toyib stated that Thailand's international reputation was at stake and urged the government to establish an independent investigating team to determine Khun Somchai's whereabouts (*The Nation* 19 March 2004). In response to the public outcry Prime Minister Thaksin announced a high-level committee to investigate Khun Somchai's disappearance (*Bangkok Post* 18 March 2004). The LST also petitioned King Bhumibol Adulyadej, to pressure the government for a speedier and thorough investigation into Khun Somchai's disappearance (*Bangkok Post* 20 April 2004). It was also a strategy to gain media coverage and maintain the public's attention on the case. Further, a response by the King would also legitimate the case as a matter for the Thai nation.

### ***The Senate Committee on Foreign Affairs***

An important response to Khun Somchai's disappearance was the Senate Committee on Foreign Affairs public forum on 1 April 2004. The public forum examined human rights violations in Thailand, and particularly focused on southern Thailand. The public forum brought together important and influential Senators, Members of Parliament, government representatives, members of the National Human Rights Commission and National Security Council, Muslim leaders, the LST and NGOs to discuss the human rights violations and determine the necessary action to address the problems.

The public forum was held in a large room with desks forming a 'U' shape and chairs lining the wall. At the head of the table sat the chair, Senator Kraisaak Chonhavan. To his right sat his advisor, Pii Sunai Pasuk, and on his left sat another Senator. To the right of Senator Kraisaak along the long arm of the 'U' shaped tables sat a representative from the LST, Pii Somchai and Pii Chalida Tajaroensukl from Forum-Asia, and government representatives. Along the left-hand side of the tables sat academics, Muslim leaders, Senators and two or three NGO workers. During the hearing, Khunying Pornthip

Rojanasunand, forensic scientist, who was investigating the disappearance, joined this side of the table. Behind these people sat fellow NGO workers and myself.

In discussing the causes of the violence in southern Thailand, a Muslim academic strongly and emotionally informed the forum that the Thai government needs to understand that Muslims in the South are not immigrants, but rather natives who have lived in southern Thailand for a very long time. Further he argued that conflicts between Muslims in the south and the government have existed for a long time. Initially the conflicts centred on economics and issues of poverty. Now the conflicts have broadened into concerns about the rights of Malays, respecting Muslim practices, and recognising that claims of Muslim identity are central to people in southern Thailand. The academic also explained that Muslim and Malay identities are not in conflict with Thai identity or the Thai state, although governments in the past and today want Muslims to be more Buddhist in their practices, to be more 'Thai'. Here religion and cultural identity are intimately connected to citizenship. The academic also suggested that part of the solution to stop the violence in the south requires the government to respect Muslim culture, because people want to live a Muslim life, as well as to be Thai.

Another participant emphasised how the police and lay people do not know about their human rights and the rights of accused people. To change state practices and protect people's rights there is a need to reform the justice system and educate people about their rights. Senator Kraisaak, the final speaker, stated that he believed human rights violations are on the increase in Thailand, with extra-judicial killings, disappearances, and state officials violating the rule of law. Senator Kraisaak also observed that the government was reverting back to the pattern of authoritarian rule, as was the situation when Thailand was under military rule, by curtailing people's freedoms and maintaining a strong hold over society. After four hours of discussions the forum decided to establish a panel to investigate human rights violations, including disappearances in the three southernmost provinces of Pattani, Yala and Narathiwat. The panel included representatives from the Central Islamic Committee of Thailand, the Senate Foreign Affairs, and Social Development and Human Security Committees, the Muslim Lawyers' Association, the National Security Council and Forum-Asia.

With Khun Somchai's disappearance being reported almost daily in the English language Thai newspapers in March and April, as well as general coverage in the Thai

language newspapers, Pii Somchai began lobbying the diplomatic community in Bangkok. Pii Somchai was hoping that governments that have important relationships with Thailand, particularly the United States, would publicly denounce Khun Somchai's disappearance and urge an investigation into the disappearance to bring the perpetrators to justice. In the United States' annual *Country Reports on Human Rights Practices*, in 2004 the Department of State raised Khun Somchai's disappearance (U.S. Department of State 2004).

The campaign also developed international focus with a working group led by Forum-Asia submitting reports to Diego Garcia-Sayan, the UN Special Rapporteur on Summary, Extrajudicial and Arbitrary Executions, and to Hina Jilani, the Special Representative of the UN Secretary-General for Human Rights Defenders, to highlight concerns regarding martial law, the torturing of criminal suspects in southern Thailand, and the disappearance of Khun Somchai. Hina Jilani held a hearing on human rights defenders during the United Nations Commission on Human Rights (HRC) session in 2004, where the Forum-Asia campaign was also submitted. The HRC is an important platform for NGOs to raise concerns committed by states and can provide a leverage to discuss human rights issues with governments so that they are not publicly denounced during the session. An important aspect to such lobbying is coordination among NGOs that have special consultative status with the Economic and Social Council of the United Nations.<sup>29</sup> Forum-Asia intervened on seven of the agenda items, and the majority were joint oral statements with NGOs such as the Asia Pacific Forum on Women, Law and Development, Pax Romana, Anti-Slavery International, the Lutheran World Federation and the International Movement Against All Forms of Discrimination and Racism.

Under item 11 of the HRC session on civil and political rights Forum-Asia intervened to highlight human rights violations in relation to national security laws and fighting terrorism. The intervention referred to martial law in Pattani, Yala and Narathiwat provinces, which had resulted in "repressive activities" being carried out towards civilians, including the disappearance of Khun Somchai. The intervention also argued the need to uphold human rights in the fight against terrorism and sought UN mechanisms to support this position. This includes the HRC appointing a Special Rapporteur to monitor the impact of anti-terrorism laws on human rights worldwide, as

well as the Counter Terrorism Committee of the UN Security Council adopting human rights principles into its policies and practices, and pursuing dialogue with the HRC.

### **Actions and inactions**

The response to Khun Somchai's disappearance involved both action and inaction. The Senate committee conducted its own independent investigation and stated that it was unable to solve the case due to a lack of cooperation from authorities (*Bangkok Post* 20 May 2004). Khunying Pornthip Rojanasunant, Deputy Director of the Central Forensic Science Institute, also complained of the difficulty in obtaining information from the police. In total there were seven separate inquiries into Khun Somchai's disappearance by the Thai state including a Senate panel, the Royal Thai Police Office, the Metropolitan Police Bureau, the Crime Suppression Division, the Special Investigations Department, the Scientific Crime Detection Division and the Central Forensic Science Institute. In all likelihood these agencies would draw conflicting conclusions and the government would have used a report that most favoured its interests and position to deflect responsibility for involvement or knowledge in the disappearance, and to demonstrate the government was upholding the rule of law and is transparent.

Following domestic and international pressure in June 2004 five police officers were indicted for involvement in Khun Somchai's disappearance, four from the Central Investigation Bureau, Major Ngern Thongsuk, Lt. Col. Sinchai Nimbunkampong, Corporal Ransom Sithikhet and Lt. Col. Chadchai Leiamsa-ngoun, and one from the Tourist Police, Lance Corporal Chaiweng Phaduang. The Criminal Court ruled that there was insufficient evidence to lay kidnapping charges against four of the five suspects, although the charges of coercion and collaboration to commit armed robbery remained (*The Nation* 10 June 2004). The low severity of the charges were partly the result of there being no criminal offence existing for 'forced disappearance', even though there is an offence for kidnapping (but it also requires an act of ransom to be made). The primary reason though was an unwillingness by state authorities to adequately investigate the case. This is evident in the lack of cooperation from authorities in the investigation by the Senate panel and the Forensic Science Institute. The United Nations Human Rights Committee also made this observation in its concluding response to Thailand's report. The Committee stated that inadequate

investigations into cases involving police and members of armed forces have created a culture of impunity (United Nations Human Rights Committee 2005).

Moreover, the trial was deficient in its operation. For example, the prosecution's case was based on two pieces of evidence: eyewitness testimony that Khun Somchai had been seen forced into a car by men resembling the defendants; and mobile phone records showing 75 calls between the defendants made on the date of Khun Somchai's disappearance from locations near where his car was found. The defendants challenged this evidence claiming the records were fabricated, and the charges against the officers were the result of tensions between the Metropolitan Police Bureau, who laid the charges, and the Crime Suppression Division, the majority of the defendants. International lawyers observing the trial could not explain why the prosecutors did not challenge the defendant's allegations of fabricated documents. There were also frequent changes with new prosecutors trying the case. In one instance there was no prosecutor present for 15 minutes whilst a defence witness gave evidence (Human Rights First 2006, The Observatory 2006, Article 2 2006, Asian Human Rights Commission 2006).

In January 2006 the Court found one defendant, Major Ngern, guilty of coercion and he was sentenced to three years imprisonment. The Court was not satisfied that the intention was to take property and so the crime of armed robbery could not be proven. The other defendants were acquitted of both charges due to a lack of evidence. The presiding Judge found that some of the mobile phone records contained omissions and discrepancies and he doubted the expertise of a police investigator who gave evidence. The Court also accepted defence claims that the mobile phone records could not prove their location at the scene of the crime as their mobiles could have been used by other people. However, the Judge did accept the evidence of the eyewitness and that the defendant, Major Ngern, was seen at the crime scene (Human Rights First 2006, The Observatory 2006, Asian Human Rights Commission 2006, Article 2 2006).

### **Analysing the response**

At the beginning of the chapter I suggested that Khun Somchai's disappearance was not an isolated incident with Amnesty International reporting nearly twenty human rights defenders being killed in Thailand since 2000 (Amnesty International 2006). However, the vast majority of these cases have not been brought to the public's attention, nor

received sustained media coverage nor led to multiple state investigations. Therefore why was the disappearance of Khun Somchai so different? I suggest that the networks formed around Khun Somchai were central to the response his disappearance received. Moreover, the case was framed by contemporary concerns about state violence and the situation in southern Thailand. Further the representations and meanings given to this act of state violence was also shaped by the global context of the international human rights regime, which transform “the contexts of story production, circulation, and reception” (Schaffer & Smith 2004:5). With this in mind I now analyse the response to Khun Somchai’s disappearance.

### ***Mobilising action***

Representations of Khun Somchai’s disappearance highlight how the case was framed to mobilise action and attract the attention of different audiences. Significant in the representations was the salience of the Muslim-terrorist conjunction in the case, both in terms of how Khun Somchai was represented and the reasons behind his disappearance. Take for example the Thai and English language newspapers where Khun Somchai was frequently labelled as a ‘Muslim Lawyer’. In the Thai language newspapers he was also referred to as the ‘lawyer for J.I.’<sup>30</sup> and the ‘J.I. lawyer’. The use of ‘JI’ connects Khun Somchai to representing alleged militants and terrorists, including people allegedly involved in a Jemaah Islamiah bomb plot in 2003. The connection between ‘Muslim’ and ‘lawyer’ also suggests that Khun Somchai was infamous, both for his high profile work but also for cases involving threats against the Thai nation. The Thai language papers such as *Thai Rath* and *Siam Rath* appeal to a Thai audience, and were slightly more sensationalist, even provocative in their representation of the case, particularly using ‘J.I.’ to describe Khun Somchai. Foreign readers, whether inside or outside of Thailand, are the main audiences of the English language newspapers, *The Nation* and *Bangkok Post*, as well as the middle-upper educated class Thai population. The language used here was rather based on human rights discourses and used language such as ‘human rights activist’ and ‘prominent human rights lawyer’.

Significantly the language used by Forum-Asia and others in the campaign was based on international human rights discourses and instruments such as the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*,<sup>31</sup> the rights of Human Rights Defenders,<sup>32</sup> and human rights concerns relating to extra-



judicial killings and summary executions.<sup>33</sup> This was necessary as the campaign was contextualised by a human rights framework and engaged international human rights institutions such as the United Nations Commission on Human Rights, the UN Special Rapporteur on Summary, Extrajudicial and Arbitrary Executions, and the Special Representative of the UN Secretary-General on Human Rights Defenders. A prime example is the use of the term ‘disappearance’ which embodies legal meanings extending from the *Declaration on the Protection of All persons from Enforced Disappearance*.

The response to Khun Somchai’s disappearance illustrates the priority given to ‘internationalising’ acts of violence. This strategy was to circumvent the Thai government, which seemed reluctant to adequately respond, and to connect to a broader audience to put pressure on the Thai government. The internationalising of Khun Somchai’s disappearance demonstrates how the institutionalising of human rights through the construction of UN bodies to monitor states complying with human rights treaties, naturalises the legalising of human rights (see chapter seven) and privileges an ‘international arena’ that is constructed as sitting above the nation-state.

In operating in this specialised field actors require technical skills, and legal knowledge about international human rights law and how the treaty and UN system operates. To operate in UN spaces resources are essential to attend meetings in Geneva and New York, and to maintain networks of key actors to influence outcomes of UN reports, sessions, fact finding missions or investigations. Actors also need to produce information in relevant form that meets the requirements of the different institutions and legal instruments. This form of production implies that the origins of violence are bound within a linear progression of time that begins with a definable act. Winifred Tate argues that this form of documentary practice is based on legal standards that can be verified and quantified, whereby individual events are produced in narrative form to create causal links between actors and human rights violations. Here there is a specific focus on dates, time lines, places and responsibility (Tate 2007:118).

The response to Khun Somchai’s disappearance illustrate the different political spaces from where human rights are practised – from judicial spaces such as Thai courts where the law is more amenable to be enforced, to international spaces of the United Nations where rights contained within international human rights instruments are promulgated

as a strategy to influence the Thai government. Wilson distinguishes between human rights “law” and “talk”, where the former refers to positivised rules in domestic and international law and the latter as how people speak about these rights and aim to give new meanings and interpretations and expand on their use (2007:350). These different genres are significant because they embed different sites of power and have the potential to produce different human rights outcomes. For example, the use of courts constrains rights to narrow legal questions of law; whereas operating within UN spaces where legal instruments are drawn upon for legitimacy and authority allows more ‘human rights talk’ such that multiple sets of meanings are ascribed to these texts to advocate diverse human rights issues.

In all these venues and genres Khun Somchai’s disappearance was clearly contextualised within the violence in southern Thailand. This context was constraining because it focused on nationalist discourses and associated Khun Somchai with being ‘un-Thai’ and anti-Thailand. Yet totally absent from public representations in Thailand were southern Thai or Muslim Malay understandings of Khun Somchai’s disappearance. This is not to suggest that public media representations of the case were misleading, but rather acknowledges that certain types of information were privileged over others. In this case a human rights framework for documenting and representing violations dominated how Khun Somchai’s case was represented from an international human rights perspective. Framed in this way the case moved through national bodies for debate, such as the Senate Forum and the National Human Rights Commission, and into the international arena including the United Nations Human Rights Commission and the Special Rapporteurs. This framing of universalist values and the documentary practice of human rights stories and facts occluded Southern Thai and Muslim Malay dimensions. Consequently the experience of state violence and the responses to Khun Somchai’s disappearance were instrumentalised and narrated into legal form (see chapter seven).

### *Networks*

Studies of NGOs have often focused on how they exert influence through networks, both in terms of flows of information and relations of power (Keck & Sikkink 1998, Jordan & van Tuijl 2000, Nelson 1997, Van Tuijl 1999, Smith et al. 1998, Burgerman 1998). Networks are used in human rights campaigns as part of a strategy to publicise

human rights violations and to exert pressure on states and other violators to adhere to international norms and obligations. This is known as the “mobilisation of shame” and aims to expose the gap between international norms and actual behaviour, whereby states are ‘shamed’ into changing their behaviour (Keenan 2004). Forum-Asia’s networks are built upon key actors including Pii Somchai, Pii Chalida, Pii Kamol and more recently Rashid Kang in the UN context. Within this network influential nodes include board members of the Forum-Asia Foundation board, such as the chairman Ajan Gothom Aryia and M.R. Ajan Prudisan Jumbala, as well as advisors such as Ambassador Asda Jayanama. Forum-Asia’s network extends to state and government officials, and actors in the international arena.

Forum-Asia’s networks were essential to the response Khun Somchai’s disappearance received. Khun Somchai was the vice-chairman of the human rights committee of the Law Society of Thailand (LST) and Pii Somchai was the chair. Because of this relationship, Pii Somchai was contacted by Khun Somchai’s colleagues soon after he disappeared. Pii Somchai’s networks extended to Senators and other state officials, and to national, regional and international human rights organisations and actors. Through these networks the case was nationalised and internationalised to exert pressure on the government to investigate Khun Somchai’s disappearance, and to shed light on the violence in southern Thailand.

A key example of the importance of networks was the Senate Forum. After jotting down the organisations named in the Senate Forum investigation panel I noticed that Forum-Asia was only one of three NGOs involved, along with the Muslim Lawyers’ Association and the Law Society of Thailand. Instrumental to Forum-Asia’s access is its close relationship with the Senate Committee, in particular the chair, Senator Kraisak, and the Committee adviser, Pii Sunai. Pii Somchai explained that Senator Kraisak “is our [Forum-Asia’s] friend” and Pii Sunai was previously Forum-Asia’s political adviser. Forum-Asia’s relationship with the Committee has developed over the years through their shared political experience and involvement in human rights issues in Thailand. Further, when state officials and parliamentary committees required information on regional and international issues, they would contact Forum-Asia. Through these engagements the actors developed an understanding and trust in each other, which developed into a mutually beneficial relationship.

This is not to disregard the unequal relations of power, and difference in ability to access and influence outcomes by NGOs like Forum-Asia in comparison to state officials. Yet the engagement by state officials with Forum-Asia also suggests that NGOs can and do have important resources, and at times, are less constrained in obtaining and disseminating information to shape and influence outcomes. For example, the Human Rights Commissioner, Pradit Charoenthaithawee, was threatened with impeachment by the Thaksin government for speaking to the United Nations about the 'war on drugs' campaign (*Bangkok Post* 8 March 2003). In contrast Forum-Asia publicly campaigned on Khun Somchai's disappearance in national and international sites of power and was not concerned about receiving a verbal rebuke from Prime Minister Thaksin. If anything, such government criticism would be used in a report to demonstrate the influence of Forum-Asia.

Networks are not just important because of the nodes they encompass and their use in transmitting and receiving information and resources, and influencing processes and outcomes. They are also useful because of the relations of power embedded within them, to channel action, to increase the spaces for debate and coordination, and to link ongoing political action. These relations of power are also frequently shifting within changing environments and involve multiple actors over time (Tate 2007:184). The benefits of such networks were clear in the period of the state violence in Thailand under Prime Minister Thaksin. I asked Pii Somchai if he was afraid of what could happen to him for being vocal about Khun Somchai's disappearance. He replied that Forum-Asia is visible because it has strong relations with the media, diplomatic communities, and other human rights organisations such as the Human Rights Commission and the LST.

Forum-Asia also receives support from important and senior state officials, as well as key actors connected to Forum-Asia such as members of the Forum-Asia Foundation and advisers. Pii Somchai revealed that Pii Kamol, Pii Chalida and himself serve on many parliamentary committees, including the national human rights steering committee, and standing committees on women and children, human security, and foreign affairs. Through these relationships Forum-Asia has established networks with government and state officials, which provides important support and protection, especially from government, military or police harassment, intimidation or worse.

Yet the case of Khun Somchai's disappearance raised questions whether anyone is protected under such a regime? State officials would attempt to intimidate Forum-Asia by sitting at the end of the *soi* (small road) on which Forum-Asia is located on and observe people entering and leaving the building, or by arriving at the office unannounced, walking through the office and inspecting foreign workers' permits. In public events Forum-Asia actors participated, plain-clothed police would attend and take pictures of participants as part of the "routinisation of fear" (Green 1995:108), which is part of the "everyday violence" enacted by the state (Kleinman 2000, Scheper-Hughes 2002). Yet in telling me these stories people often laughed and joked about these acts of intimidation, as a way of dismissing their significance or potential consequence. This suggests that police presence and a 'climate of fear' can be normalised or even negated in everyday life (Green 1995:110).

In contrast to Forum-Asia, some NGOs in Thailand were too scared to investigate human rights violations in Southern Thailand out of fear that what happened to Khun Somchai might happen to them (Interview, Forum-Asia actor, April, 2004). This is because they are not well connected to influential figures in the government and the state apparatus. Another perspective on the limited involvement of Thai NGOs is connected to the very issues which Khun Somchai worked on.

Khun Somchai was Muslim and prior to his disappearance he was representing Muslim men charged with terrorist offences against the Thai state. It is possible that, because of social divisions between Buddhists and Muslims, other human rights organisations were not interested in pursuing the disappearance of Khun Somchai. Some people in Bangkok explained to me that they saw the case as a "southern problem", confined to the southern region. My colleague, Benjamin Dierikx, who was working in North-east Thailand at the same time, relayed to me his discussions with people in the region about Khun Somchai's case. They reported a sense of fatalism in terms of "what else would you expect" when someone represents terrorists and publicly raises claims of torture against the police (personal communication March 2007). Yet I also spoke to Buddhist Thais who were very concerned about Khun Somchai's disappearance and viewed the case in terms of human rights, the rule of law and the legitimate role of the government and police. In international media reports Khun Somchai's Muslim identity and his representation of alleged terrorists were not emphasised more than the issues surrounding Khun Somchai's case.

### *International networks*

Prior to the disappearance of Khun Somchai, the diplomatic community in Thailand was already concerned about the escalating violence, the burning of Buddhist temples, and the killing of monks and lay people in southern Thailand. They were also worried about the violence escalating as a result of Khun Somchai's disappearance (Interview with a human rights actor, April 2004). With the nationalising of Khun Somchai's case, Pii Somchai began lobbying the diplomatic community in Bangkok. Forum-Asia's networks with diplomats developed out of its campaigns on Burma, East Timor and Cambodia as embassy officials were also concerned about these countries in terms of regional security and stability, economic trade, democracy and human rights.

Forum-Asia lobbied states that have close ties with Thailand, such as the United States, to influence them to publicly condemn Khun Somchai's disappearance, and urge an investigation to find him and bring the perpetrators of his disappearance to justice (Interview with a human rights actor, April 2004). Engaging embassies is also part of Forum-Asia's strategy for matters to be taken up at the United Nations. Information supplied to embassies can be fed back to their foreign affairs department and government, and then sent to the country's mission at the UN for advocacy purposes, to discuss in Committees, to support a UN fact-finding mission, or to be used in resolutions (Interview 2004).

Forum-Asia's submissions to Diego Garcia-Sayan, the UN Special Rapporteur on Summary, Extrajudicial and Arbitrary Executions, and Hina Jilani the Special Representative of the UN Secretary-General for Human Rights Defenders, illustrate the usefulness of advocacy work and how networks extend to multiple sites of power to raise awareness and exert pressure for change. Pii Somchai explained that Forum-Asia has a longstanding relationship with Jilani as she is the Secretary General of a Pakistani human rights NGO that is a member of Forum-Asia. Forum-Asia also assisted Jilani in May 2003 when she visited Thailand to investigate government-sponsored curtailment of human rights defenders and NGOs.<sup>34</sup>

Forum-Asia's international engagements are highlighted by its recent work of participating annually in the Human Rights Committee (HRC) session in Geneva,

Switzerland and can be seen as a response to the professionalising of organisational practice and the increasing importance given to the international human rights system by human rights NGOs.<sup>35</sup> The United Nations holds a key position within the international human rights regime as a place where human rights are valorised and contested. Under the *International Covenant on Civil and Political Rights* 1976, the HRC was established as its treaty body to monitor the implementation of the Covenant and examines individual complaints of alleged violations of the Covenant by states' parties to the First Optional Protocol.

Forum-Asia's networks also extend to the international spaces of the United Nations such as the Commission of Human Rights. The Commission provides a central location for human rights groups to operate in the international arena as it brings together a vast array of human rights actors who attempt to negotiate a common agenda and promote it to Commission members. Even though the Commission is an important space within the international human rights regime, it is not a physical entity represented in a building or bureaucracy. Instead the Commission is constituted through a resolution by the United Nations Economic and Social Council and made visible by its members coming together annually for six weeks of the year. Here the Commission, like the United Nations, is imagined as an international space, even though it exists within particular grounded places.

In 2003 Forum-Asia obtained special consultative status with the Economic and Social Council of the United Nations.<sup>36</sup> An important aspect to such lobbying is coordination among NGOs. At the HRC session in 2004, Forum-Asia orally intervened on seven of the agenda items, the majority of which were joint oral statements with influential NGOs such as Pax Romana and Anti-Slavery International. Both these NGOs are prominent in the international arena such as at the United Nations and have vast networks across Asia. Joint oral statements are a strategy used in UN advocacy work as claims are strengthened by the increased support of other NGOs. The HRC session is also an important platform for NGOs to raise concerns committed by states. It also operates as a lever to discuss issues with governments so that they are not publicly denounced in this international forum.

*Cyberspace*

Increasingly the Internet is being used to promote human rights and publicise campaigns, as is the case of Khun Somchai's disappearance (see Figures 16 and 17).<sup>37</sup> Using the Internet means information can be disseminated quickly, is cheaper than printing and manually distributing material, and does not require the involvement of third parties such as the media, although it does not replace the mass media (Rodgers 2003:47). The Internet can also bridge geographical spaces and expand campaign networks.

Despite the benefits in using the Internet, access to it is influenced by class, race, geographic location, age, education and language. Resources are necessary to buy and maintain computers and software, and employ people with skills to construct and maintain websites (see Lekhi 2000, Silver 2000). Sandip Roy also raises concerns about the limitations of the Internet, and cautions against "keyboard activism" which has the potential to maintain the invisibility of marginalised groups and "forgetting that the real grassroots organizing still needs to be down on the ground, in community forums, protest petitions, and mailers" (2003:189). Notwithstanding these limitations, David Silver suggests that the Internet also has the potential for marginalised groups to "establish self-defined, self-determined" cyberspaces that are not constrained by "real world" experiences (2000:28).

During my time at Forum-Asia its website was being redeveloped to be more pertinent to the day-to-day activities of Forum-Asia, so that it could be a useful resource for member organisations, other human rights organisations and the media. Forum-Asia's website, and more generally cyberspace, can be viewed as a performance site, whereby statements, urgent appeals and promotions of events are *performed* human rights practices. Like all performances texts, websites deploy "the meaning we make with words and with the symbolic values of every object and action" (Lemke, 1995:1). The Internet is also built upon a visual experience, but also articulates sound, movement, patterns and rhythms, and not just steady utterances of written words in text format like books or reports (Lemke 1995:7). Website protests may not conjure the same images or impact as large protests of people on the streets carrying banners, shouting chants, making demands, and situating their protest in front of important buildings such as



parliament house (see Missingham 2003), but they are becoming a new strategy to protest and push for change.

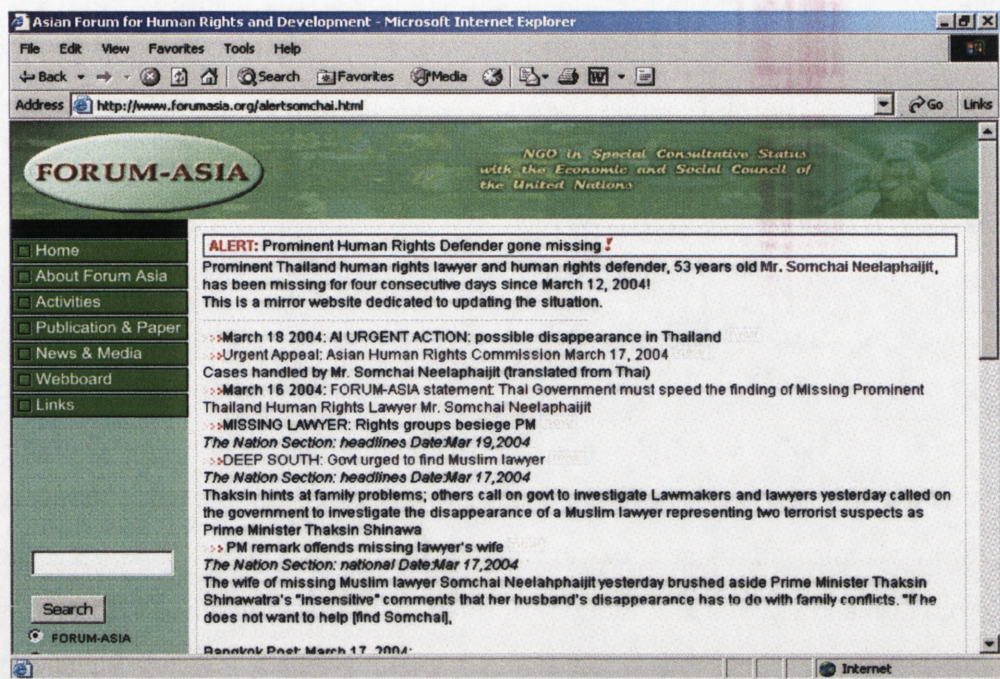


Figure 15: Forum-Asia’s website

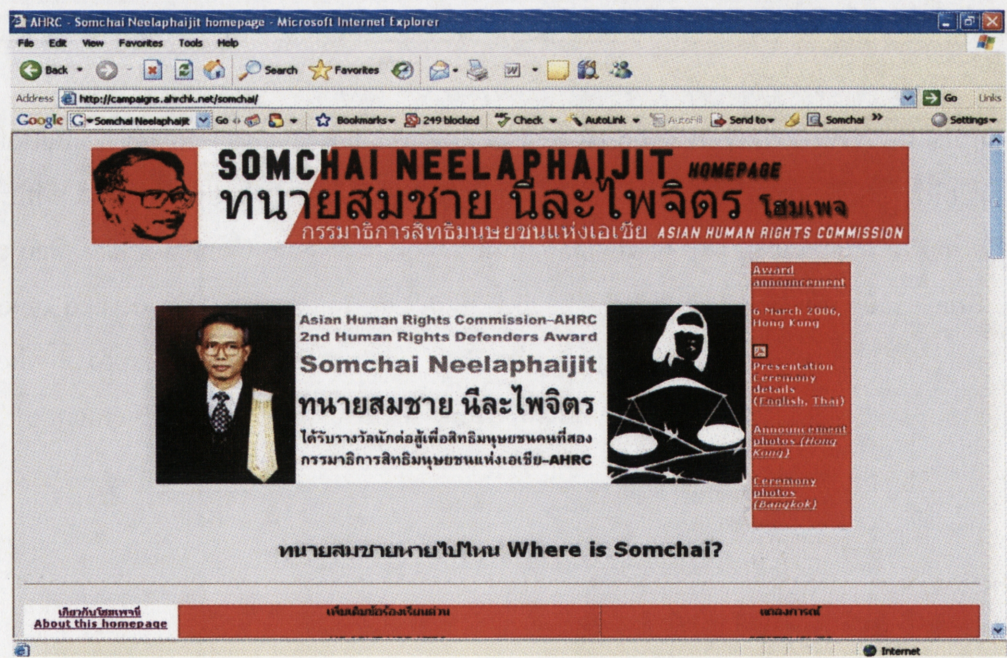


Figure 16: Khun Somchai’s campaign

In conceptualising Forum-Asia’s website as performance text, I suggest that some of the same signifiers of street protest also apply to cyber protests. Cyber protests actively



engage with power holders, other social actors and the public, and in doing so, attempt to promote social change (see Donk et al. 2004). These practices occur *in place* ‘cyberspatially’ (Crampton 2003:2). In comparing cyber protests with street protests, cyber protests are of course not as concretely confined geographically and can more readily cross local, regional and national boundaries. This enables a potentially greater number of people to gain information and to participate in the protest by extending the voices of the website protest in the form of transmitting material or writing letters to power holders.

Forum-Asia’s website enables it to make the public aware of issues the government attempts to silence, as well as to provide alternative information and voices to the government on social issues. Through this medium of communication Forum-Asia operates as a critical broadcast communicator, which is uni-directional in terms of the flow of information. This raises questions about the Internet being an ‘open’ space of free information and dialogue. In reality information is still limited and restricted, since the information made available is determined by the website owner. Baden Offord suggests that the Internet represents new opportunities for social and political engagement by circumventing authoritarian state control over “truth and power” (2003:144). Examples of opening information flows include blogging and interactive websites such as Wikipedia. I agree with Offord that the Internet provides new possibilities for sharing and disseminating information, however, there are limitations to this possibility. States can and do curtail what can be accessed via the Internet within its borders, and regulate what can be displayed in cyberspace (see Gomez 2004, Gan et al. 2004). Sometimes Forum-Asia’s website is shutdown, Internet access denied or other faults or technological problems occur. No evidence exists to prove or disprove who are creating these problems, but some actors at Forum-Asia suspect the involvement of Thai state actors.

## **Conclusion**

This chapter explored how Forum-Asia, along with other human rights actors, give meaning to acts of violence, and resist and contest state violence. Crucial to this resistance was the centrality of powerful personal networks, together with the media and electronic communications to politically mobilise action. All were used as part of a strategy to make human rights claims public and to exert pressure on the government to

investigate Khun Somchai's disappearance. Networks were deployed because of the relations of power embedded within them, in terms of channelling information, increasing the spaces for debate and coordination, and linking ongoing political action. Such networks provided an important resource of protection from state violence. This enabled Forum-Asia to be part of the campaign whereas other NGOs were concerned about being publicly involved as they did not have similar protection. Moreover, Forum-Asia's participation in the campaign was influenced by its prominent presence in the international human rights regime. Operating in this regime requires particular resources, skills and knowledge, and illustrates the influence the professionalising of Forum-Asia has on how it practises human rights.

Forum-Asia's campaign highlighted the permeability of such networks across the borders of the state and NGOs, and the blurring between national, regional and international spaces. The poignant case of Khun Somchai's disappearance challenged the constructed and imagined separation of geo-political spaces, both hierarchically and vertically, and demonstrates how different sites of power – national, regional and international – can be constituted within the spaces of Bangkok. Yet the human rights regime also reproduces the idea and experience of the 'international arena' being vertically situated above the nation-state, and is embedded in bureaucratic practices which nation-states are engaged in creating through international human rights law and the international human rights system.

By examining the responses and resistance to state violence I demonstrated that power is not only brutal and oppressive, but as Michel Foucault suggests can also be productive and emancipating (1978, 1980). Khun Somchai's case was not an isolated incident, but rather must be historically and politically situated within a framework of state violence in Thailand. From this perspective violence is experienced and made sense of in everyday life. In the case of Thailand, violence is not only confined to the three southern provinces of Yala, Pattani and Narathiwat where martial law constructs a zone of terror. Violence is also experienced in the disappearance of Khun Somchai in Bangkok, the fear this brings to his family and other parts of society, and the expanding surveillance and intimidation by agents of the state. Violence resides in the very language and official discourse of the state which constructs certain groups as 'un-Thai' and 'anti-Thailand'. This offers an expansive legitimisation and ultimate sanction for committing acts of violence.

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## Notes

<sup>24</sup> I use the term 'Khun' rather than 'Mr' as it was the term used when I was in Thailand. It is a formal title given to a man.

<sup>25</sup> The LST is an important organisation in Thailand that promotes human rights, especially for marginalised social groups, such as hill tribe groups seeking Thai citizenship, and illegal migrant labourers by pursuing unpaid wages and improving working conditions. The LST also takes on pro bono cases, and provides legal advice and representation to people who cannot afford to pay for such services. In addition the LST publicly speaks out against state practices that they believe breach people's rights.

<sup>26</sup> The National Human Rights Commission of Thailand investigated Khun Somchai's complaint and found evidence of torture and detention without access to a lawyer or family.

<sup>27</sup> See *Critical Asian Studies* (2006) 38:1 'Rethinking Thailand's Southern Violence'.

<sup>28</sup> 'Disappearance' refers to "persons [that] are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, or by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law". UNHCR website:

[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.47.133.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.47.133.En?OpenDocument).

<sup>29</sup> NGOs with this status are able to orally intervene at the HRC session on agenda items.

<sup>30</sup> J.I. stands for Jemaah Islamiah.

<sup>31</sup> See UNHCR website: [http://www.unhchr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhchr.ch/html/menu3/b/h_cat39.htm)

<sup>32</sup> These rights are set out in the *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En?OpenDocument)

<sup>33</sup> These rights are set out in the *Principles of the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*: <http://www.unhchr.ch/html/menu3/b/54.htm>

<sup>34</sup> Jilani expressed a "climate of fear" amongst human rights groups in Thailand as a result of government-sponsored harassment and intimidation on the grounds of government public statements against NGOs, attempts to cut off NGO foreign funding, and the use of state apparatuses and judicial processes to intimidate human rights groups (*Bangkok Post* 28 May 2003 and *The Nation* 28 May 2003).

<sup>35</sup> In chapter seven I explore this issue in greater detail.

<sup>36</sup> NGOs with this status are entitled to orally intervene at the HRC session on agenda items.

<sup>37</sup> During the campaign one website was developed specifically for Khun Somchai, which Forum-Asia joined. Even though political space and cyberspace is beyond the scope of my research I ask four questions concerning cyber space and practice: 1) How does cyberspace influence and shape epistemological and ontological constructions of political space? 2) How is cyberspace produced and utilised by different types of actors within different spaces? 3) How are relations of power produced and maintained with cyberspace? and 4) How are political spaces within cyberspace constrained, curtailed and contested? Research examining cyberspace and political practice includes Loader (1997), Hill & Hughes (1998), Crampton (2003), Rodgers (2003) and Donk *et al.* (2004).

## Chapter 4

### Constituting Civil Society

[T]he real political task in a society such as ours is to criticize the working of institutions which appear to be both neutral and independent; to criticize them in such a manner that the political violence which has always exercised itself obscurely through them will be unmasked, so that one can fight them. (Foucault cited in (Rabinow 1991:6)

In the previous chapter I explored how Forum-Asia contested the Thai state and argued that the presumed borders between the state and civil society actors are permeable. This chapter explores the emergence of civil society within a Thai context and the ‘climate of fear’ that existed during Prime Minister Thaksin’s government. It is within these several spaces and sites of power that human rights NGOs, such as Forum-Asia, practise human rights. By focusing on their everyday practices I problematise the border constructed between the state and civil society. I raise questions about relations between the models of scholars and actors, as well as cross-cultural translations between dominant Euro-American models and experiences in a Thai context.

This chapter is in two parts. The first part explores scholarly debates on conceptualising political spaces and the pervasive focus on the assumed permanence of the state. Linking this analysis to Foucauldian questions of power I explore the constitution of civil society. The second part examines how scholars and actors conceptualise political spaces within a Thai context, and sets the scene for how I understand ‘the state’ and ‘civil society’ in the political landscape in which Forum-Asia operates. Here I situate my research in the political environment dominated by the former Prime Minister, Thaksin Shinawatra. He was ultimately deposed by a military coup in 2006, but he significantly shaped the spaces for the practice of human rights and the very constitution of Thai politics.

#### Rethinking power and the state

We live in a world of states. Virtually every landmass of the globe is now the territory of some state. The phenomenon is relatively recent, a feature of modern times... (Morris 1998:1)

To explore the constitution of political spaces we must begin by conceptualising power and its relationship to the state. David Held contends “[t]here is nothing more central to political and social theory than the nature of the state, and nothing more contested” (1989:11). Andrew Heywood further suggests that “[s]o powerful and extensive is the modern state that its nature has become the centrepiece of political argument and ideological debate” (1999:74). Yet Christopher Morris cautions against the presumed prevalence of the state in scholarly writings on bodies politic (1998:3). Similarly, Held suggests that scholars should be cautious in considering the states’ permanency, historicity and how it is constituted (1989:1-2).

In recognising the historical contingency of the state, we need to ask what the state is. Is the state a natural ‘thing’ that can be examined or does it conceal the effects of power in its self-representation as a structure, set of institutions or systems (Trouillot 2001:126)? Dominant conceptualisations of the state reflect a reified or abstract understanding which construct the state as a structure (Poulantzas 1978) or as a unit of institutions and organisational bureaucracies (Weber 1965, 1978). Theories of the state are dominated by a liberal approach, which emerged from modern political theory in the writings of Hobbes and Locke on social contract theory and focuses on issues of sovereignty and citizenship (Heywood 1999:77). Painter contends that dominant theories of the state have concentrated on attempting to define the characteristics of the state by its “distinctive functions, mechanisms or spatiality” (2006:756). Painter suggests that these approaches are problematic because many private actors are now performing the functions of the state, such as providing private security forces, schools, hospitals, prisons, and water and electricity services. Further the mechanisms by which the state acts with legitimacy and authority is never total and complete, but needs to be continually reiterated to enact claims of legitimacy and authority (Painter 2006:756).

### **Foucault’s effect on conceptualising power**

Influenced by the works of Foucault (1977, 1978, 1980, 1991), there has been much debate about the relationship between power, hegemony and resistance, and how the state and civil society relations are constituted, in particular how actors experience the state and civil society (Ferguson & Gupta 2002, Gupta 1995, Mitchell 1991, Painter 2006, Hansen & Stepputat 2001, Scott 1998). The emphasis here is on how power is experienced in the everyday practices of people’s lives and how power is best not

conceived in dichotomous ways: dominant versus submissive; powerful versus powerless; and oppressor versus oppressed. Here I draw upon the writings of Foucault and his notions of power.

Foucault contends that power resides in the institutions and systems themselves, rather than inheres in specific individuals or actions. Further, Foucault argues that power does not universally exist “in a concentrated or diffused form [but rather] ... only when it is put into action” (1982:219). Foucault’s understanding of power contrasts with a Marxist conception that sees power as a possession controlled by people in positions of authority and enacted onto and against the powerless (Mills 2003:35). Foucault defines such practices as the use of force or coercion rather than as power in general. For Foucault power is far broader than coercion. It entails investigating discourses and practices, and the relations of power and knowledge. Foucault understands power to be dispersed and multidirectional, and operating at all levels of society. In exploring the capillary nature of power Foucault writes:

Power must be understood in the first instance as the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organization: as the process which, through ceaseless struggle and confrontations, transforms, strengthens, or even reverses them; as the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly, as the strategies in which they take effect, whose general design or institutional crystallization is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies.

[An understanding of power] must not be sought in a unique source of sovereignty from which secondary and descendant forms would emanate; it is the moving substrate of force relations which, by virtue of their inequality, constantly engender states of power, but the later are always local and unstable....Power is everywhere not because it embraces everything, but because it comes from everywhere. And “Power,” insofar as it is permanent, repetitious, inert, and self-reproducing, is simply the over-all effect that emerges from all these mobilities, the concatenation that rests on each of them and seeks in turn to arrest their movement ...power is not an institution, and not a structure; neither is it a certain strength we are endowed with; it is the name that one attributes to a complex strategic situation in a particular society. (Foucault 1978:92-93)

Here Foucault talks about power being ‘productive’, which enables new and alternative forms of behaviour, as opposed to simply censoring, dominating or oppressing



behaviour (Mills 2003:33, McHoul & Grace 1993:64). Sara Mills suggests that Foucault's notion of power enables the investigation of the mundane and daily ways in which power is contested, accommodated and enacted, which positions individuals as active agents and not passive recipients (2003:34). Mills suggests that "[i]ndividuals should not be seen as recipients of power, but as a 'place' where power is enacted and the place where it is resisted" (2003:35). Foucault is not suggesting that no positions of domination exist, but rather that this is only one model of power which can be exercised amongst a "myriad of power relations at the microlevel of society" (Sawicki 1991:20).

Foucault was less concerned with issues of legitimacy and sovereignty and more focused on investigating the 'governmentalisation' of societies – the specific ways human practices became objects of knowledge, regulations and discipline (Hansen & Stepputat 2001:4). These processes involve what Foucault calls technologies of domination and technologies of the self. The regulatory force of sovereignty aims to centralise power in the state and its practices while rituals materialise its reality.

Foucault maintains that theories of the state "assume a solidity and permanence to the state", which provide little opportunity for change, and fail to comprehend the actual "fragility of the maintenance of power" (Mills 2003:48). Moving beyond a binary logic of state and civil society, freedom and oppression, and consensus and violence, enables scholars to examine the fluid system of power relations within its historicity, specificity and locality.

### **The state and civil society relations**

The separation between state and civil society was theorised by Hegel. It assumes a separation and interaction between pre-constituted spheres, rather than the effects of their mutual constitution (Painter 2005b:45, 2006:753-754). In doing so the state and civil society are conceptualised as being coherent and bounded spaces.

However, by applying Foucault's understanding of power to conceptualising political spaces, the distinction between state and civil society has been questioned in recent scholarship. Instead, the state and civil society are seen as mutually constituted through practice and discourses and relations of power (Alonso 1994, Ferguson & Gupta 2002, Gupta 1995, Mitchell 1991, Navaro-Yashin 2002, Trouillot 2001). This framework

problematise the dominant conception of the state as spatialised territorially and placed above society through the doctrine of sovereignty and the corporeal metaphors used in representing relations of the two.

Ferguson and Gupta assert that the presumed verticality and encompassment of the state is embedded in the “mundane bureaucratic practices” of the state (2002:994). They offer a spatial analysis of the divide between the state and society, and its implication for the exercise of political power. State spatialisation involves two key processes: “vertically (the state is ‘above’ society) and encompassment (the state ‘encompasses’ its localities)” (Ferguson & Gupta 2002:981). State spatialisation acts to naturalise authority, secure legitimacy and to embody the state as the centre of political power (Ferguson & Gupta 2002:982). Through vertical encompassment the state is conceived in bodily terms, and seen to possess “‘higher’ functions as reason, control, and regulation, as against the irrationality, passions, and uncontrollable appetites of the lower regions of society” (Ferguson & Gupta 2002:982). Like a body the state is seen to exercise control over its territory, extending to its extremities, the margins of its borders of the sovereign body (Alonso 1994:382).

Similarly, Philip Abrams critiques the reification of the state, and argues that the state should not be conceptualised as an entity, but rather as an ideological construct. Abrams maintains the need to recognise “that the *idea* of the state has a significant political reality”, and it is this ‘ideological power’ which should form the ‘object of analysis’ (1988:68,79). Timothy Mitchell refers to this ‘ideological power’ as a ‘structural effect’ and writes that:

[The state] should be examined not as an actual structure, but as the powerful, metaphysical effect of practices that make such structures appear to exist...

By approaching the state as an effect, one can both acknowledge the power of the political arrangements that we call the state and at the same time account for their elusiveness.

(Mitchell 1991:94-95)

Mitchell’s analysis of the state parallels Foucault’s idea of how the state is constituted as an effect of a system of power relations. Mitchell argues that the state should not be thought of or examined as an object, but rather as a set of powerful methods of ordering and representing social practice (1991). In explaining the constructed distinction between the state and society, Mitchell draws upon Foucault’s idea of governmentality,

and suggests that the “ability to have an internal distinction appear as though it were the external boundary between separate objects is the distinctive technique of the modern political order” (1991:78). In exploring these techniques, Begona Aretxaga does not suggest that the division is fictional, but rather that the division is imagined by how it is experienced through its material effects and symbolic presence (2003:400).

## Civil Society

As with its ubiquitous partner, the ‘state’, there is much diversity and variety in how the concept ‘civil society’ has been used (Kumar 1993, Gellner 1991, Bobbio 1989, Chandhoke 2003). Despite different theoretical and political positions, many scholars maintain the idea that civil society operates between the state and the individual (Cohen & Arato 1992, Chatterjee 1990, Taylor 1990). Painter suggests that civil society has been used in three main ways:

1. The social whole consists of the state and civil society. Civil society is everything that the state is not.
2. The social whole is the state, civil society and the economy. Civil society is outside the state and market economy.
3. The social whole is the state, civil society and the private sphere. Civil society exists between the state and private realm for public engagement. (Painter 2005a:9)

In all three conceptualisations, civil society is separate from and opposed to the state. Scholars and actors use the concept civil society to construct an alternative space for political participation. Neera Chandhoke argues that such a response has been to ‘thin out’ civil society to fit neatly within a “minimalist version of democracy” (2003:8), whilst making invisible the unequal systems of relations of power that civil society reproduces.

The concept and value of civil society gained political force during the 1980s in the global political and economic context of neo-liberalism, and with transitions from authoritarian and communist regimes to democracy (Alagappa 2004a:3, Chandhoke 2003:11, Edwards & Hulme 1996b:3). In the 1980s and 1990s civil society was seen as a solution to world problems, especially issues surrounding development – eradicating poverty, preventing the spread of HIV, education, reducing mortality rates and

improving health – and in institutionalising democracy, the rule of law and human rights. However, civil society is not a new term and dates back to 18<sup>th</sup> century Europe and the leading thinker of Scottish Enlightenment, Adam Ferguson, who argued that social interaction leads to diversity and conflict rather than uniformity and harmony (Alagappa 2004b:27, Kumar 1993:377).<sup>38</sup> De Tocqueville argued that civil society limits the state, Hegel argued civil society was a necessary stage in the formation of the state, Marx saw civil society as the source of power for the state, while Gramsci suggested civil society was the space for the capitalist state to construct its hegemony over society. Contemporary theorists have ‘uncoupled’ the relationship between civil society and the state, and assumed civil society to be independent or alternative to the state (Chandhoke 2003:11).

So, in recent political movements civil society has been seen as the space existing between the individual and state and promoted to rebuild the ‘public sphere’.<sup>39</sup> This idea was forged in Eastern Europe during the 1980s as societies were transforming from socialist and authoritarian regimes. In relation to these historical precursors three significant features are present in contemporary discussions about civil society: 1) people are part of the political arena and can enter political debates on their own terms; 2) that associations – clubs, societies and trade unions – are a good thing in themselves and provide support to communities; and 3) institutionalising state-society relations entails the rule of law, and constituting civil and political rights limits the power of the state (Chandhoke 2003:14-15). The fall of socialism saw liberal supporters proclaim an end to socialism and the promotion of civil society because it was seen to answer and address problems in post-soviet societies. Further, the state, particularly post-colonial states, has been represented as ‘failing’ the people and the nation. Adherents saw civil society as the place to articulate rights and make demands on the state. With the assumed failure of the state, civil society was conceived as a separate and distinct sphere (Chandhoke 2003:20-23).

In understanding civil society Khilani argues that civil society should not be thought of as a substantive category that embodies specific institutions which exist in opposition to the state and are independent. Further that civil society is a historical product of diverse social and political structures regulating and organising society and is not necessarily aligned to liberal democracy. Therefore civil society is not a determinate end for a society to reach, but rather identifies the moral and political organisation of social

systems. Thus the promulgation of civil society may result in unintended outcomes (Khilnani 2001:24-25).

Civil society is now being promoted not just by non-state actors in movements for democracy, political freedoms and human rights, but also by states, intergovernmental bodies such as the World Bank and United Nations, and donors. But if all these diverse and even opposing groups hail ‘civil society’, are the meanings of civil society the same or consonant? I rather acknowledge the contested and fragile nature of civil society. Like Chandhoke, I argue that civil society needs to be problematised “in order to restore the status of civil society as an ambiguous and tension-ridden concept in and for political theory and practice” (2003:13).

Rather than providing a restrictive definition of civil society, I use the concept as a labile concept deployed by actors, such as Forum-Asia, who contest, counter and accommodate systems of relations of power in the form of the state. I do not want to suggest that civil society is just the opposite to the state. Civil society exists in *relation* to the state (Rodan 1996:19, Hudson 2001:342, Chandhoke 2003:50). The normative force of the label ‘civil society’ is used by actors to articulate diverse interests and ideologies, and in legitimating their participation in politics. In recognising the normative force of ‘civil society’ I also caution against conceiving it as prescribing a specific type of politics which societies should then strive to approximate.

I now examine the Thai polity and explore how the language of ‘civil society’ is given meaning and articulated as a site of struggle and contestation to promulgate human rights.

### **Thai politics**

Scholarly models of the Thai polity emphasise the role of the state, particularly the monarchy, civil bureaucracy, the military, parliament, and state apparatus. Surin Maisrikrod suggests that since the end of the absolute monarchy in 1932, the state has been the most dominant actor in the Thai polity, and the military has been the dominant group within the state (Surin 1997:142). However, the events after the attempted coup of May 1992 and the ensuing street protests and state violence, resulted in the military, temporarily,<sup>40</sup> no longer dominating politics. Pasuk Phongpaichit and Chris Baker

contend that the absence of the military provided the opportunity for businessmen to control parliament and cabinet (Pasuk & Baker 2002b:415), and with the decline of the military, business groups emerged to dominate the polity (Hewison 1993:180). This political transformation also led to intellectuals pushing for change to the continuing pattern of military style rule of “over-centralization, excessive bureaucratic control, state domination of the media, and suppression of human and civic rights” (Pasuk & Baker 2002b:418).

Various models of the Thai polity have been espoused. One of the first influential models was Fred Riggs’ ‘bureaucratic polity’, which described his understanding of the political system in the 1960s (Riggs 1966). Riggs started from the 1932 overthrow of the absolute monarchy, and argued this was a transfer of power to the bureaucracy, as cabinet positions shifted from the nobility to high-ranking bureaucrats. Riggs saw the conjoint interests of the military and civil bureaucracy as meshed in the ‘bureaucratic polity’. The bureaucratic polity was a small select group that controlled through personalistic ties to high-ranking bureaucrats in the cabinet and ministries, and relationships with business (Ockey 2004:143-144). Riggs draws upon a Weberian model of bureaucratic ‘rules’ and ‘rationality’, which also accommodated ‘traditional’ Thai patron-client ties. There was a connection between the ‘modern state’ and ‘traditional’ Thai social organisation (Day 2002:169).

Critics of this model argue that it was premised on a liberal understanding of politics. The emphasis on bureaucratic structures was predicated on a desire to modernise and eliminate patron-client ties along liberal, rational and democratic lines (Ockey 2004:144). Kevin Hewison critiques Riggs’ bureaucratic polity model as a structural-functionalist account which “prevents a full analysis of conflict, change and class structure” (1997:5). Hewison contends that such an approach has a tendency “to produce arguments which rely on cultural determinism for their explanations” (1997:6).

In examining different approaches by Thai studies scholars to the Thai state, Ockey identifies four dominant groups: financiers and business men; provincial notables; retired government officials dominated by the army and police; and ‘professional’ politicians, individuals who have been politicians for most of their working lives (2004:150). Surin suggests that it has been the “rise and fall” in alliances, as well as tensions between these four groups which has seen the emergence and contraction of

democratisation in the Thai polity (1997:141). More recently Duncan McCargo has coined the term 'network monarchy' to more accurately characterise contemporary Thai politics. The dominant 'network' of the period 1973 to 2001 was centred on the palace, which included empowering interventions in the political process (2005:500-503). Prior to the former Prime Minister Thaksin being deposed by a military coup in 2006, McCargo suggests that Thaksin sought to displace the network centred on the monarchy with his own networks (2005:500).

But an undue focus on the capitalists and middle class neglects social movements, labour groups and the poor according to Ji Ungpakorn in *The Struggle for Democracy and Social Justice in Thailand* (1997). Ji critiques the idea that Thais are politically passive, and instead emphasises "the dynamic [nature] of class struggle in Thai history and especially the role of struggle from below" (1997:30). In doing so, Ji questions the usefulness of Riggs' bureaucratic polity model, and indeed the view that the Thai state is autonomous, that military and civilian bureaucrat rule was total, and that the rest of society (working class, middle class and peasants) were unable to exert pressure or contest state power (1997:31). Ji and others illustrate that political participation by a range of actors is not a new aspect of Thailand's political environment (Hewison 1997:11, Ji 1997:48), as is sometimes espoused by scholars. For example, in attempting to explain the passivity of Thais, Donald Hindley wrote that Thai social and political structures allowed a highly efficient dictatorial military regime to exist and suppress political opposition. He also argued that as a cultural logic of accepting authority, rules of conduct, and the belief that an individual's position in life is the result of present or past merit promoted passivity (1968:359-363). Ji disputes this logic and illustrates how 'ordinary' actors, including farmers, peasants and organised labour have from an early period been involved in politics (1997:48-50).

Like Ji, I contend that the Thai polity consists of multiple spaces, sites and actors. Focusing on state body politics such as parliament, bureaucrats and state officials conceals other important forms of political activity. Consequently the position of the state is naturalised, and actors including social movements, NGOs, activists, trade unionists and critics are de-legitimated as political actors. Hewison argues that political spaces are a "site of struggle, as well as negotiation and agreement" (1997:10). Sites of struggle encompass both state and non-state actors and contesting and accommodating the exercise of power and promulgating counter hegemonic discourses. However, these



state and non-state actors should not be constructed in automatic opposition to each other. As Hewison observes in the “ebb and flow” of political space in Thailand (1997:11-15), alliances and oppositions change and transform over time. Homogenising actors as ‘state’ or ‘non-state’ occludes their multiple subject positions and the ways in which different actors participate in politics.

### **Thai civil society**

In Thailand civil society emerged from the development of the “media, publicly engaged NGOs, and intellectuals acting as articulators of the public interest from the 1980s onwards” (Connors 2003a:214). However, the appropriation of ideologies including democracy and civil society by state actors was a strategy to discipline the people and non-state actors, and explains how the notion of civil society gained normative force. This is demonstrated by how state actors transformed civil society (*pracha sangkhom*) into *prachakhom*, meaning state-initiated and guided groups. The emphasis here on state-led civil society reflects the dominant position of state actors in Thai politics.

With the rise of local struggles, particularly the democratic struggle after the attempted military coup in 1991-92 and the social unrest which followed, discourses of civil society eclipsed older forms of class-based struggles, reflecting a transformation to more pluralist politics (Connors 2003a:218). This was not only a reflection of the failures of the Communist Party of Thailand, but also how actors were emerging in civil society who formed around specific issues which transgressed class identifications. They were operating within a global context and obtained donor funds which adhered to this ideology. Pasuk argues that the emergence of civil society also reflected the belief amongst people that the focus during the 1980s on strengthening democratic systems and structures to allow people to participate in politics, and overcome social and economic inequalities had failed. People had now turned to ‘people’s politics’ to assert direct participation in politics (1999b:10-12, 2002:12). This response also reflects the influence of Western-style values of representative democracy, whereby ‘the public’ operates to hold governments to account.

In a public lecture on civilising the state, Pasuk outlines two different models of how civil society is thought of in Thailand. The first approach promotes further

modernisation through reform, and Western industrialisation of the economy and society. The need is “to modernise Thailand’s peasant society out of existence”. This is achieved by the poor moving to the city away from villages, and through turning peasants into capitalist farmers, enlightened by education and facilitated by new technology (Pasuk 1999b:15-16). This approach is top-down, urban-centred and maintains an idealistic image of modernisation.

The second approach focuses upon “battles within civil society” by defending and extending local rights, enlarging political spaces and ending patronage systems dominated by bureaucrats and bosses. The focus is on power from ‘below’. Social transformation is effected by demonstrations, protests and attacking the dominant discourse. This approach contends that urban and farming societies can and should co-exist (Pasuk 1999b:16). Pasuk perceives the difference between these two approaches as mainly a matter of class. The first approach is urban-centric and emphasises the importance of the middle class, whereas the second approach focuses on the rural peasant and the urban poor (Pasuk 1999b:16-17). This critique is echoed by some Western scholars who argue that Thai civil society generally represents middle-class organisations, and not labour, peasant or slum community groups. This elitist and restrictive view of civil society has hindered full political participation as the poor have been excluded (Ockey 2002:121-122, Connors 2003a:3).

Some influential social critics have commented upon the importance of the local community within civil society and the need for NGOs to strengthen this constituency. Prawase Wasi argues that because the state is strong, state cooperation is necessary for meaningful social change in Thailand (2002). Further, he suggests that building civil society from below is futile and NGOs should concentrate on strengthening the ‘third sector’ (community organisations) until it is as strong as the state and business sectors to create a “mutual dependent society”. The importance lies in the development between people, NGOs, academics, the media and government to work together solving the country’s problems (Gawin 1995:142, Somchai 2002:134). This model paints a conservative picture of social transformation and suggests that all these different actors share the same agendas and objectives.

Somchai critiques Prawase’s view of developing civil society, arguing it is elitist and wrongly assumes that the system must be built from above, that reforms by elites would

only “aim at preserving the existing structure”, and that a partnership between state and civil society is about maintaining ‘harmony’ and conflict avoidance, both of which are espoused as Thai ideals (2002:135). In contrast to Prawase, Somchai argues for “radical democracy” which focuses upon a popular mass of opposition (2002:138). Somchai sees civil society as independent of the state and market, and functioning autonomously, so that civil society can restructure the state system, develop popular empowerment through political participation, especially by the poor, which will in turn enable people to learn about their rights (2002:138-140). Even though Somchai calls this radical democracy, his model also prescribes liberal ideas of non-state actors providing services and in turn reducing the reach and power of the state (2002). Other scholars reject this idea, and argue that it weakens any potential for real structural reform (Ji 2003).

In Thailand civil society is viewed as embracing NGOs, social movements, trade unions, academics, and other non-state actors, who exist to promote the rule of law, democracy, human rights, justice, the environment and development issues; act to counter the state; and check and scrutinise the state. Thai social movements focus on development and the environment, human rights and political reform, and issues around identity (Pasuk 2002:13). In discussing civil society with Forum-Asia actors, my interlocutors similarly questioned the naturalised divide and separation between the state and civil society, recognising that actors which came under these ‘banners’ at times worked together to promote human rights, whilst also debating ideas about the meanings of rights, justice and political participation. However, they also explained that the value of “autonomy and independence” meant that human rights organisations should be independent and free from governments and donors to be able to raise human rights matters and not be influenced or pressured by these actors (field notes 2005). For these actors civil society is a normative force to articulate a set of spaces encompassing a set of values to legitimate actors participating in politics that are ‘people-centred’. This conceptualisation of civil society presupposes a concept of ‘politics’, and it emphasises agency and political action.

### **NGOs: *ongkanphatthana ekkachon***

In the Thai language ‘NGO’ is translated as *ongkanphatthana ekkachon* which translates as private development organisations.<sup>41</sup> NGOs are often seen as synonymous with Thai civil society (Gawin 1995), yet at times NGOs are also connected with social

movements (Somchai 2004). The dominant representation of NGOs is that they pursue social and political change, provide social services, and “bring new issues and values into the public sphere” (Cohen & Arato 1992:19). However, the ability to define precisely what is an ‘NGO’ is fraught with complications due the various types of NGOs (grassroots, national, international, southern and northern); their difference in size, number of staff and volunteers; work undertaken (service providers, activists, advocates, trainers and empowering local communities); their funding situation and access to resources (extending from self-sufficiency through membership and public donations to receiving funds from donor agencies or governments); and their autonomy from donors (Chandhoke 2003:71, 446-449, Fisher 1997:441).<sup>42</sup> Dorothea Hilhorst contends that the practice of defining and separating what constitutes an ‘NGO’ and types of ‘NGOs’ is part of the politics of NGO-ing. Instead Hilhorst suggests studying why and how organisations are framed as ‘NGOs’ (2003:6-7). From this perspective there is an emphasis given to the meanings of the NGO label and why groups adopt this claim-bearing label. Significantly attached to this label are their moral claims of ‘doing good’ (Hilhorst 2003:7), as well as notions of agency.

Thai NGOs originated in the late 1960s and worked in development, urban community, religious work, with children and the elderly, social welfare, cultural identity and literacy, but at this point did not constitute a movement (Gawin 1995:135-138, Rueng 1995:51). In the 1960s, Puey Ungphakorn, the former governor of the Bank of Thailand, criticised the government’s focus on economic policy and uneven development, and helped establish the Thai Rural Reconstruction Movement, recognised as the first Thai NGO (Suthy 1995:99). Connors suggests that the focus by NGOs at the time on local development and social issues was a strategy not to threaten the state during the repressive regime of the 1970s (2003a:218).

The rise of NGOs took place after the social uprising of October 1973 and the removal of the military regime. In that period NGOs became established with a greater emphasis on humanitarian issues and social justice (Pasuk 2000:7-8, Amara 1995:37). The aims of both international and local NGOs were to reverse the social problems caused by the post-1960 state development strategy, as well as focussing on improving the quality of living standards, and responding to the social problems which emerged in the 1970s. These NGOs worked in villages or in the slums with the urban poor, which in part has been influenced by ideologies of the Communist Party of Thailand (Ji 1997).<sup>43</sup> Their

agendas focused on organisation, training and providing basic health care (Pasuk & Baker 2002b:399).

After the 1973 social uprising a period of liberalisation and democratic development emerged and led to the establishment of development organisations in rural areas and urban slums (Pfaffmann & Kron 1992:9). Gawin argues that the 1973 event marks a moment in Thai history when the relationship between the state and people radically changed. Only after this event did organisations appear concerned with democracy and human rights (1995:135, 138). At the end of the 1970s and early 1980s grassroots activities were suppressed. It was not until the late 1980s that development NGOs emerged and assumed a role in the development of Thai society (Amara 1995:38). Ji suggests that it was the “collapse of confidence” in Marxist alternatives to capitalism, combined with the ruling elites’ concern with struggles from below from the mid 1970s, which eventually enabled NGOs to grow (Ungpakorn 2003:289-290). The global contexts of the promotion of liberal democracy and neoliberalism led to Western countries and donor agencies funding NGOs, and especially the delivery of services in the burgeoning development sector (Alagappa 2004a:3, Chandhoke 2003:11, Edwards & Hulme 1996b:3).

The emergence of ‘money politics’ in the 1980s saw activists, including veterans from 1970s social movements, become disillusioned by business politicians wanting to profit from the legacies of dictatorial rule, particularly patron ties. This resulted in activists pursuing “a charter of rights to protect resources and oppose excessive state power” (Pasuk & Baker 2002b:426-427). Following the 1991 military coup and the overthrow of the elected government, NGOs and activists kept a low profile, but slowly built-up networks of supporters against the military government (Gawin 1995:138-9). But it was an NGO coalition group consisting of the Student Union of Thailand and Democracy Campaign Project, joined by political opposition parties that worked against the Suchina government in May 1992 and led to its downfall (Amara 1995:40).

Both Kevin Hewison and Suthy Prasartset argue that the collapse of the military-backed regime in 1992<sup>44</sup> marked the emergence of NGOs as significant political actors (2002:143, 1995:99).<sup>45</sup> In examining the role of NGOs since 1997, Connors contends that they have been successful because of the failure of the party system of politics to adequately represent people’s interests, their specific knowledge and resources on issues

and their capacity to form networks (2003a:215). In the Thai context I suggest that NGOs are constituted through their relationships with broader institutions of the community, the state and civil society, whereby NGOs “can be thought of as both the material production of institutional discourses and as a site through which these discourses are reproduced and changed...” (Del Casino Jr. 1999:3-4).

The Thai state establishes the legal and political framework under which NGOs operate. James Riker argues that the state can influence the political space in which NGOs operate through policies and legislation, the content of the state’s programmes, and the organisational channels it chooses for pursuing development or other social services (1995:26). In Thailand NGOs are either registered or unregistered. If registered they operate either as an association or foundation. An association is defined as a group of individuals with corporate status and does not operate to share profits or income generated by the association for the benefit of its members. A foundation operates for the benefit of the public, such as a charity or a religious or educational organisation and not for profit sharing. Shinichi Shigetomi notes that in 1979 the Vice-Minister of Interior issued an order that foundations could not conduct any political activities. However, in 1992 an amendment was made to the Civil Code to nullify this order (Shigetomi 2002:131).<sup>46</sup> In addition, the National Cultural Act of 1942 established the National Cultural Commission, which is responsible for both establishment and oversight of foundations and associations. Under the Civil and Commercial Code, the National Police Office Bureau has responsibility for establishment and oversight of associations, and the Ministry of the Interior has responsibility for foundations.

The registering of an NGO is very complicated and complex. John Baker suggests that this complex, long and expensive process partly explains why many NGOs are not registered (1995:123-124). Applications for registration are made to the Interior Ministry and National Cultural Commission. Foundations are also required to deposit 200,000 baht (AU\$7000). However not being registered has the effect of a double-edged sword. Unregistered NGOs are more flexible, mobile and autonomous, and can attempt “to circumvent state control by avoiding official registration” (Naruemon 2002:187). However, unregistered NGOs are considered illegal and viewed with suspicion and do not receive recognition, cooperation or assistance from the government (Three Freedoms Project 1999:243), and donors are restricted from funding such NGOs directly. Historically in Thailand NGOs were expected to focus on service-

delivery and refrain from political activities. It was not until the second government of Anand Panyarachum in 1992 that this law was abolished (Baker 1995:123). The restrictions placed on NGOs has also resulted in cooptation and selective cooperation by the state with some NGOs (Three Freedoms Project 1999:244).

### *NGOs and human rights*

The focus on human rights by Thai NGOs emerged after the 14 October 1973 social uprising to defeat the military regime. During the October 14 uprising and the violence that engulfed the demonstrators from the military and police in an attempt to suppress social dissent (Charnvit 2003), the Union for Civil Liberty (UCL) was formed. Two of the founders include Professor Saneh Chamarik, who is the current National Human Rights Commissioner, and Ajarn Gothom Arya who was an Election Commissioner and during the time of my research, the chairman of the Forum-Asia Foundation. UCL focuses on institutionalising human rights by educating people, the government, bureaucrats, police and military, disseminating information about civil rights and promoting civil liberties, and raising awareness of rights at the village level. UCL also highlighted social and economic issues for farmers and workers.<sup>47</sup> Many prominent activists, lawyers and academics involved in human rights and political reform have been or are involved with UCL. The secretariat of Forum-Asia was located at UCL and Pii Somchai was also previously a board member of UCL. NGOs such as UCL were also important in forming new NGOs working within the area of human rights.

Since the 1970s, the work of human rights NGOs concentrated on political campaigns and legal assistance to the poor, whilst also working on development and natural resource matters. The focus was on creating a political environment for farmers and villages to have community rights over their natural resources and to be involved in the resource management of their lands. These campaigns involved promoting local peoples' histories and relationship to their environment and the impact of state development projects on peoples' lives and livelihoods.<sup>48</sup>

The 1980s also saw NGOs beginning to promote rights discourses beyond development issues,<sup>49</sup> which began to change relations between the state and individuals and communities, and expand notions of citizenship. In articulating development and human rights discourses NGOs contested the Thai state ideology of 'national development' and



what ‘Thai-ness’ means. The establishment of the NGO-Coordinating Committee on Rural Development (NGO-CORD) in 1985, and the fact that NGOs operated loosely under national networks, resulted in different groups using a common language aimed at constitutional structures and the state (Connors 2003a:218). Likewise NGOs focusing on human rights developed a common language by drawing upon international human rights instruments and discourses to promote human rights aimed at ratifying human rights instruments and to establish national human rights commissions. Networks also emerged within the region advocating international human rights and were followed by the increasing profile of international human rights NGOs in the region, such as Amnesty International and Human Rights Watch.<sup>50</sup>

### **Identity borders and otherness in shaping Thai politics**

Constructions of Thai identity and nationhood are important in constructions of Thai politics and the legitimation of actors and practices. Here I focus on ‘Thai-ness’ and the act of being ‘Thai’ as constructed in relation to the nation-state. The discursive formation of culture and national identity has been explored in the collection *National Identity and Its Defenders* (Reynolds 2002a). The collection interrogates Thai identity “for its history, its presumed content, and its deployment in fashioning cultural, ethnic and linguistic policy at the national level” (Reynolds 2002b:4). The deployment of Thai identity, and its use by the state, occurred with the name change of Siam to Thailand in 1939 during the government of Field Marshall Plaek Phibun Songkhram (Reynolds 2002b:4). The name change signified the ethnicising of the geo-political space to constitute a nation-state and its people, as well as to bring the different ethnic groups under an overarching Thai identity and Bangkok rule (Connors 2003a:36-37). Intimately connected to this process of constructing ‘Thai-ness’ was Siam’s response to its engagement with the British and French colonial powers (Thongchai 1994, Streckfuss 1993).<sup>51</sup> Herzfeld contends that although ‘un-Thai’ (*watthanatham*) was coined as a mark of indigenous pride, it was also a response to external representations of “cultural excellence” (2002:905).

Central to constructions of Thai nationhood are the three pillars of society, which supposedly operate to ‘unite’ the Thai nation and its peoples. ‘Thai-ness’ is that act of being ‘Thai’, whereby Thais are supposedly naturally aware of, embody and practise life as Thais. Winichakul Thongchai argues that notions of ‘Thai-ness’ preserve

traditional values even though these are often vague and claimed by authorities for different purposes and at different moments throughout history. Western practices are selectively adopted that are compatible and harmonious with the Thai people and nation (Thongchai 1994:3-6). Connors maintains that Thai-ness “is the central ideological resource of the ruling elite” to mobilise its citizenry and for nation building purposes, especially promoting loyalty and commitment to the nation-state and constructing an identification between the people and the nation (2005:524-525). Connors sees the discursive formation of Thai-ness as part of developing the nation:

Identity, here, is a projection of the nation as a subject. There is constant slippage between identity of the nation (as a list of characteristics) and identity of the people (as a list of subjective orientations to the nation). This slippage was a mechanism by which interior/exterior identity could be melded together as national identity: a linking of subjective orientations to the objective and moral existence of the nation, an interiorization of the exterior. (Connors 2003a:143)

Between 1939 and 1942 the government issued 12 Cultural Mandates which included the name change of Siam to Thailand, what constituted treasonous activity, the centralisation of a unitary national identity, and appropriate behaviour and dress. These policies were an attempt to promote a national culture and identity, especially loyalty and connection to the nation-state through symbols such as the flag, national and royal anthems, and the vaunting of the prosperity of Thais against minorities. Such cultural policies were entwined with national security concerns – the Communists were depicted as ‘un-Thai’ and ‘anti-Thai’, and actions contrary to the ruling elite were constructed as destabilising, dangerous and against the Nation-Monarchy-Religion (Reynolds 2002b:4-15).<sup>52</sup> ‘Thai-ness’ was also inscribed on to gendered bodies through what was appropriate dress and behaviour for men and women (Van Esterik 2000:95-124, Jackson & Cook 1999). Penny Van Esterik contends that during this period women were constructed as “the public embodiment of Thai culture” (2000:103).<sup>53</sup>

The Thai state thus promulgated particular discourses to build a nation-state through various state-controlled channels such as the bureaucracy, the education system and the media (Jory 1999:461). Such representations draw upon “nationalist imaginings, including culture, land, people, religion, history, and destiny, but the application and interpretation of these elements constantly shift” (Connors 2005:525). A prime example has been the establishment of a cultural bureaucracy extending from the National

Culture Acts of 1942 and 1943, to the Ministry of Culture and the National Identity Board. These bureaucracies emphasise nationalist discourses that enables the state to legitimate its authority in constructing and representing Thai-ness. Consequently Thai-ness, according to officials and intellectuals, is constantly ‘under threat’ and requires the state to regulate what Thai-ness is, and how to preserve and adapt it (Connors 2005:523-524).

The border of Thai-ness is constructed by both an internal and external dichotomy designating difference, otherness and the enemy, which can be extended beyond Thailand (Thongchai 1994:169). From this perspective ‘Thai-ness’ is constructed in relational and oppositional form to ‘un-Thai’ and anti-Thailand. Craig Reynolds argues that the “[t]he power of Thai identity lies in its imaged capacity to differentiate inside from outside...” (2002b:27) to demarcate difference whilst naturalising and disguising the inherent relations of power. Further the emphasis placed on social harmony and stability is part of the nation-building project, but also reflects a grand narrative of Thai history – the potential for social unrest and armed conflict against the state. This fear is invoked with reference to the events of 1973, 1976, 1991 and 1992, and more recently the conflict and social unrest that led to a military coup deposing Prime Minister Thaksin’s government in 2006. State and government policies entwine national security with national identity, whereby actions contrary to the ruling elite are constructed as destabilising, dangerous and against the Nation-Monarchy-Religion (Reynolds 2002b:4-15, Thongchai 1994:166-169). Here I quote from Thongchai on the construction of the internal and external enemy in Thai identity:

The discourse of national security is undoubtedly a very effective paranoia put into Thai people’s heads by the Thai state. The creation of otherness, the enemy in particular, is necessary to justify the existing political and social control against rivals from without as well as from within. Without this discursive enemy, all the varieties of coercive force, from a paramilitary organization on every border of Thailand to the professional army, would be redundant. In contrast to the general belief, the state and its security apparatus survive because of the enemy. Discursively, if not actually, what actively creates the enemy and produces most threats to a country if not the state’s security mechanism? The enemy must be presented, produced, or implicated and then discursively sustained. It is always projected – if not overtly *desired*. (Thongchai 1994:167)

## The rise of Thaksin

Here I discuss the transformation of the Thai polity under Thaksin's rule who was remembered for his comparison between running a company and ruling a country: "A company is a country. A country is a company. They are the same. The management is the same" (Pasuk & Baker 2004:101).<sup>54</sup> In January 2001 the *Thai Rak Thai* (Thais who love Thai) political party, led by Thaksin, won national elections, which at the time was the largest election success in history.<sup>55</sup> Thaksin was also one of the wealthiest people in Thailand (McCargo & Ukrist 2005:5), and his Cabinet members came from six major business groups in Thailand: telecommunications; automobile parts; entertainment; agro-businesses; construction contractor businesses; and real estate businesses and large landowners (Pasuk 2004:6 Notes no. 2). Given the concentration of elite business groups at the centre of government, Thai scholars conceptualised politics under Thaksin as being "big money politics" involving "a new political structure in which power is centralized in a political party financed by big business" (Pasuk & Baker 2004:196, Herzfeld 2007:260).<sup>56</sup> Ockey provides a succinct understanding of the former Thaksin government:

At the core of the regime are a set of wealthy entrepreneurs (at present openly led by major concessionaires), provincial notables, retired officials, civilian and military and professional politicians. (Ockey 2004:156).

*Thai Rak Thai* initially received wide support from a range of political and social activists, including NGOs by targeting the poor through social welfare policies (Hewison 2003:139, McCargo & Ukrist 2005:89). In describing this change in government policy, Thirayuth Boonmi, coined the phrase 'Thaksinomics'. This involved interventionist government policies by protecting and promoting firms and sectors to overcome the disadvantages against more advanced economies (Pasuk & Baker 2004:100). To secure success Thaksin developed arrangements with former business rivals and built business-political alliances to deliver electoral support (Hewison 2003:139). This partnership emerged from the 1990s when business had developed alliances with senior technocrats, and where power derived from such wealth and bureaucratic networks (Pasuk & Baker 1997:25). Consequently Thaksin developed a nation-wide network of businesses, political parties, the military and the police. These actors were all intricately linked to Thaksin and his family (McCargo & Ukrist 2005:214).<sup>57</sup>

A constant theme in Thaksin's rule was his use of nationalism to obtain legitimacy. In forming the *Thai Rak Thai* party, Thaksin drew upon the "emotional nationalism" of the period after the economic crisis of the 1990s (Pasuk & Baker 2004:139) where much of the blame was directed towards the International Monetary Fund (IMF) (McCargo & Ukrist 2005:179). Pasuk and Baker argue that Thaksin individualised nationalism with slogans such as "for every Thai" (Pasuk & Baker 2002a:11). The name of his party means Thais Love Thais/Thailand. He talked about *banmuang* (a loose term for people and society) rather than more traditional terms such as *chat* (nation) (McCargo & Ukrist 2005:179). However, Thaksin still drew upon traditional symbols of nationalism such as the Thai flag and ideas of independence and sovereignty. In August 2003 Thaksin announced 'Independence Day' for Thailand in a public speech to celebrate Thailand repaying its debt to the IMF following the economic crisis. To highlight the period of economic dependency Thaksin used a large Thai flag to serve as the backdrop and stated that "[f]rom now on, we are free of the IMF" and urged people to "fly the national flag as a symbol to show the Kingdom's freedom from the stand-by credit agency..." (*The Nation* 2 August 2003)! Here the sense of never having been a formal colony is important for Thai nationalism (Herzfeld 2002:902-903).

Thaksin also used negative nationalist sentiment towards the Burmese in Thailand who are generally disliked and not trusted, and is propagated in films and books. This is because of the history between the two countries, in particular wars over territory and Burma's invasion of Thailand's previous capital, Ayutthiya – in 1767 it was burnt to the ground. On 28 June 2003 Thaksin criticised the United Nations High Commissioner for Refugees (UNHCR) for granting refugee status to Burmese exiles without the consent of the government stating:

If the UN can issue a piece of paper for them [Burmese exiles] to have freedom in our country, where is our sovereignty? [Thailand is]... a member of the UN, but just a member, not its subordinate". (*The Nation* 28 June 2003)

[Thaksin claimed that the Burmese] live here [in Thailand] and give birth to a lot of children. They shot our students. They bring diseases long gone from our country back to us ... They sell drugs and rob and kill our people. The government was worried [Burmese] dissidents 'let loose' could endanger security [if allowed to protest outside the Burmese embassy]. (*Bangkok Post* 28 June 2003)

Government policy to stop Burmese protests was thus justified by national security concerns about sovereignty and economic interests.

The political space that had been created since the 1980s dramatically changed under Thaksin's rule (Pasuk 2004:4). This occurred in four ways. First, the government developed a new 'social contract' with the Thai people, particularly the poor, farmers and villages by offering village development funds, debt moratoria and cheap health care (Pasuk 2004:4, Hewison 2003:120, McCargo & Ukrist 2005:89). The new "social contract" was a response to World Bank and IMF neoliberal policies of privatisation which promoted opening domestic economies to foreign ownership. Instead, Thaksin's policies were aimed at maintaining domestic capitalist dominance in the domestic economy by determining government policy and ensuring domestic businesses controlled the domestic markets (Hewison 2003:129, 139).

Thaksin's social contract also had implications for how he wanted to construct the Thai citizen's relationship to the state and nation. This is clearly elucidated in his speech as to why he entered politics:

When the people unite together in a state, they must agree to sacrifice some parts of their freedom so that the state can make the rules by which people can live together in society with justice. (Pasuk & Baker 2004:135)

In his opening speech at a conference of Asian political parties in November 2002, Thaksin continued this idea of a social contract and elaborated:

[T]hrough the act of setting up a state, the people consent to give up their personal freedoms and become bound by the laws and norms of the government and the general will. This is for the sake of social order and majority rule. (Pasuk & Baker 2004:136)

Second, the government resorted to repression to suppress protests when financial incentives were not effective. The government used the military and police to portray oppositionists and critics as 'anti-Thai' and 'un-Thai' (Pasuk & Baker 2004:134, Pasuk 2004:4). Consequently the ability for the parliamentary opposition, academics, NGOs and state commissions to scrutinise government policy was becoming increasingly difficult. In an attempt to curtail NGOs, in 2001 the government requested the Foreign

Ministry to contact foreign donors and persuade them to stop funding “dissident NGOs in Thailand” (*Bangkok Post* 9 May 2003). Additionally in 2002 the Anti-Money Laundering Office, which investigates organised crime, examined the assets of NGO representatives, newspaper executives and foreign assistants. NGOs viewed this as an attempt by the government to intimidate NGOs and limit their criticism of government policies. Visa bans were placed on foreign NGO staff and a government order was issued for provincial governors to monitor NGOs in their regions (*Bangkok Post* 9 May 2003 and *The Nation* 9 May 2003). Villagers were also warned by state agencies not to get involved with NGOs (*Bangkok Post* 23 June 2003).

The suppression of protesters and critics was illustrated in a report by Hina Jilani, the Special Representative of the UN Secretary-General for Human Rights Defenders. In May 2003 Jilani publicly announced her findings on the situation of human rights defenders in Thailand. Jilani stressed that a ‘climate of fear’ existed and was due to government-sponsored harassment and intimidation. She expressed concern over the “sensed ... level of insecurity among human rights defenders which ranges from general unease to actual fear” (*Bangkok Post* 28 May 2003). This was due to government statements directed towards human rights defenders, attempts to cut off NGO’s foreign funding, and the use of state bodies such as the Anti-Money Laundering Office and the prosecution of protesters to harass and intimidate human rights defenders (*Bangkok Post* 28 May 2003 and *The Nation* 28 May 2003). In response to Jilani’s comments, Thaksin denounced foreign criticism as unworthy and irrelevant, stating that “he would bow to no-one and would protect Thailand’s dignity”. He asked “what do we [Thailand] have to worry about? The UN does not give us rice to eat” (*Bangkok Post* 29 May 2003 and *The Nation* 29 May 2003).

Another example was the government’s response to protesters during the APEC Summit in Bangkok in 2003. Prior to the APEC Summit Thaksin issued a warning against street protests, stating the people and organisations involved would “find it difficult to obtain government assistance ... [and would suffer] long and painful consequences” (*Bangkok Post* 2 October 2003 and *The Nation* 2 October 2003). To legitimise the restriction of public demonstrations Thaksin asserted that the government was hosting the Summit for the benefit of the nation, and that such a policy was necessary for the sake of security, public order and the country’s reputation (*Bangkok Post* 2 October 2003 and *The Nation* 2 October 2003).

Third, the government constrained and censored the media through laws and regulations, intimidation and bribery.<sup>58</sup> In June 2005 two websites with content highly critical of the government were shut down allegedly by order of the Information and Communication Technology Ministry (Sathian 2005). Pasuk argues that the media under Thaksin was restricted, limited and constantly under state surveillance (2004:4). For example, in 2000 Thaksin's family company acquired a 55 per cent stake in the publicly listed media company iTV. This was achieved by removing provisions in the law which previously limited holdings by individuals to a maximum of 10 per cent. Following the takeover twenty-three journalists were fired who had complained about Thaksin's interference in the 2001 election reporting. Five other free-to-air channels, which were owned by the army or government, and which had previously broadcast current affairs shows debating social and political issues suddenly ceased (Pasuk & Baker 2004:149-150).

Fourth, the government initiated 'social order' campaigns aimed at disciplining Thai society. These involved closing down video stores at night after 10pm so children would be at home and reducing the opening hours of adult entertainment venues. The latter also involved rezoning areas of Bangkok which had different curfews. Despite these desired changes there was in fact minimal change, except that businesses connected to the government benefited from the rezoning. Also achieved was inscribing the paternalistic role of the government and intimidating "all forms of social deviance" (Pasuk 2004:5).

### **Constructing the enemy: the 'war on drugs' campaign**

Constructing 'the enemy' is clearly witnessed in the 'war on drugs' campaign which was launched on 1 February 2003 by Prime Minister Thaksin. The 'war on drugs' campaign was represented as essential to 'social order' and was aimed at eradicating all drugs from Thailand and saving the children. Examining this campaign provides insight into Thaksin's style of rule, his use of nationalist discourses to obtain legitimacy and the human rights violations the proliferated under his rule. In his speech on launching the campaign Thaksin stated:



The drug sellers have been ruthless with the Thai people, with our children, so if we are ruthless with them it is not a big deal ... If they [drug traders] don't stop, there is a chance they will be dealt with in every way, both life and limb...

If some drug traders die, it will be a common thing. We have to send a message that they have to quit. (Pasuk & Baker 2004:160)

From the beginning of the 'war' the media reported daily the growing number of people being arrested and killed and assets seized. By the end of the three month campaign 2637 were killed with only 68 being 'officially' shot by police in self-defence. The government argued that the remaining killings were by other drug dealers to prevent them providing information to the police (*Bangkok Post* 11 December 2003). Government ministers endorsed the use of 'special measures' such as disappearances to eradicate drug dealers and users from Thailand. For example, the Interior Minister Wan Mohamad Noor Matha stated that "they [drug dealers] will be put behind bars or even vanish without a trace. Who cares? They are destroying our country". Prime Minister Thaksin maintained this position during the campaign and stated "the government's strategy is to smoke out pushers, who will be eliminated by their own kind. I don't understand why some people are so concerned about them while neglecting to care for the future of one million children who are being lured into becoming drug-users". He later explained that "[murder] is not an unusual fate for wicked people" (*The Nation* 1 and 9 March 2003). In response to the 'war on drugs' prominent human rights advocates, Senators, academics and foreign diplomats voiced concern over this policy. Lawyers and human rights campaigners such as Senator Thongbai Thongpao stated that the campaign "violated basic human rights" and amounted to extra-judicial killings (*Bangkok Post* 28 February 2003).

The government also used a system of bribes and threats to ensure that regional governors and police chiefs carried out the campaign. Three lists were compiled: one by police; the second by local administrative organisations and village heads; and the third by the Narcotics Control Board. Officials who failed to meet their quotas faced dismissal. Those who brought in a "major drug dealer" dead or alive received a reward of one million baht (more than \$30,000). Critics of the government's policy were branded as supporters of drug dealers and against the nation. Pradit Charoenthawee, a Human Rights Commissioner, was threatened with impeachment by the Thaksin government for speaking to the United Nations about the 'war on drugs' campaign.

Thaksin also labelled Pradit as a ‘whistle blower’ and his comments as ‘sickening’ (*Bangkok Post* 8 March 2003).

Human rights groups, including Forum-Asia, heavily criticised the government for sanctioning a shoot to kill policy, particularly the government’s policy demanding a 25 percent reduction of people on the blacklists by the end of February. Thaksin attempted to justify his government’s policy by constructing a human rights framework that bestowed rights upon ‘good Thais’ whilst denying rights to ‘un-Thais’. In constructing a dichotomy between ‘Thai’ and ‘un-Thai’ Thaksin condemned the lives of drug dealers whilst prioritising the lives of police and children.

During this period the Thai government made a concerted effort to situate its policies and practices within nationalist discourses, of serving the interests of the nation and its people. In doing so the government attempted to construct a Thai polity in which dissent and opposition was minimal and restricted, and considered ‘un-Thai’ and anti-Thailand. The government was also promoting a strong and authoritarian role for the state, as supremely overwhelming and dominating the political arena, and coercing its citizenry to accept and support this authoritarian-paternalistic role.

## **Conclusion**

The aim of this chapter has been to problematise the dominant model of centring the state in conceptualising polities by focusing on the mundane practices of Forum-Asia. By adopting a Foucauldian framework to explore the relationship between power, hegemony and resistance I argued that the state and civil society are mutually constituted as an effect of a system of power relations. I also drew upon the works of scholars such as Mitchell to suggest that the ordering and representing of social practice creates a structure like effect, whereby the state becomes reified as a set of structures (1991). The focus on daily practices provided significant insight in demonstrating the fluid terrain in constituting political spaces, which converge across the imagined borders of the state and civil society.

With this framework I examined how scholars and actors conceptualise political spaces within Thai polities. I argued that much of the scholarly debate has been dominated by a focus on the Thai state, which includes the monarchy, civil bureaucracy, the military,

parliament, and state apparatuses. In expanding the focus to Thai politics, Ockey also includes financiers and business men; provincial notables; retired government officials with army and police being prominent; and 'professional' politicians (2004:150). Yet I also take-up Ji's concern that there has been insufficient attention paid to social movements, labour groups and the poor in contesting the state, instituting social unrest and participating in Thai politics (Ji 1997). This critique illustrates the dominant model of a Thai state-led development of civil society, which is in contrast to a more participatory model promulgated by civil society actors. From this latter perspective Thai politics are constituted within multiple spaces, which can be sites to communicate counter-hegemonic narratives and contest the state.

In focusing on the practice of human rights a significant political space is civil society. Instead of providing a definitive set of criteria to define and demarcate the sites and spaces of civil society, I argued that civil society should be conceptualised both as an analytical tool and as a normative force constituted through discourses and practice. This is based upon the idea that civil society can assume political agency, and that the institutions and actors which embody civil society spaces are necessary to reflect the multiple and varied actors and interests in politics (Alagappa 2004b:29). Yet I also caution against conceptualising civil society as opposite to the state; civil society exists in relation to the state. In recognising that 'civil society' is promulgated by a vast range of actors within a multiplicity of spaces, the term needs to be historically situated to understand the meanings actors have given to civil society and how this is legitimated. For actors such as Forum-Asia, civil society provides a meaningful label to categorise actors that contest and accommodate the state on many issues and is used to promote an 'Asian solidarity' in promoting and protecting human rights. The label also provides normative force to legitimate participation in politics and to constitute a site of struggle and contestation between competing interests and ideologies. In conceptualising civil society with both analytical and normative meanings I maintain its contested nature and historical and political specificity.

In the latter part of the chapter I illustrated overt and violent forms of power enacted by the state under Thaksin's administration. Here the spaces for civil society and human rights actors to contest the authority and legitimacy of the Thai state and the government were restricted. However, I do not want to suggest that the zone of civil society contracts in response to the curtailing of freedom by the state and then expands

again when it is lifted. As I argued in chapter two in the construction of space and illustrated in chapter three regarding the response to the disappearance of Khun Somchai, a “climate of fear” can lead to resistance and the production of new spaces to contest the state in various forms. In the case of Khun Somchai’s disappearance, Forum-Asia engaged with state agents to make human rights claims public and to pressure the Thai government to bring the perpetrators of Khun Somchai’s disappearance to justice. Another response was to frame the case internationally and to operate in international spaces of the United Nations, located both in Bangkok and Geneva.

## Notes

<sup>38</sup> For a history of civil society see Khilnani (2001), Khilnani (1993) and Alagappa (2004b).

<sup>39</sup> The ‘public sphere’ concept has also been critiqued for not recognising the multiplicity of discourses, spaces and sites of power which construct ideas of ‘public’ in a binary relationship with private spheres and actors (see Robbins, 1993).

<sup>40</sup> In 2006 the military staged a successful coup ousting the Thaksin government. In December 2007 general elections were held and key members of Thaksin’s former party returned to parliament and formed government.

<sup>41</sup> NGOs differ from ‘people’s organisations’ or what is commonly referred to in the literature as ‘grass-roots’ organisations, signifying the difference between organisations that work for people and organisations established by the people themselves.

<sup>42</sup> See Naruemon (2002) for defining Thai NGOs.

<sup>43</sup> The CPT did not focus on class issues and instead emphasised nationalism, the peasantry (following Maoist traditions), and the promotion of national independence from foreign investment, corporations and capitalism (Ji 1997:97-100).

<sup>44</sup> Choi argues that during the May 1992 uprising “all sides to the conflict, including the military, claimed either to be defending democracy or to rationalise their actions through democratic principles” (2002:22).

<sup>45</sup> Noeleen Heyzer, James Riker and Antonio Quizan (eds) also argue that NGOs in Asia have participated in contributing to the building of democratic space in civil society and have assisted in participating in social change (1995).

<sup>46</sup> Foundations that are established to ‘promote and support democracy which has the King as the chief of the state’, their objectives must include the following, “The foundation shall be impartial in supporting and promoting the Democracy which has the King as the chief of state, and shall not provide financial support or any assets to any political parties or politicians”.

<sup>47</sup> Interview with former UCL worker February 2004.

<sup>48</sup> Interview with an NGO worker and academic January 2004.

<sup>49</sup> Interview with a prominent human rights NGO worker October 2003.

<sup>50</sup> Interview with a human rights NGO worker October 2003.

<sup>51</sup> In Thai *prathet* means country, such as *prathet thai* or *prathet australia*. However, *muang* (governed area) can only be used to denote Thailand, e.g. *muang thai*. Ascribing *prathet* to *thai* was adopted in 1941 and reflects the technologies of modern geography, mapping and defining states (Thongchai 1994:49).

<sup>52</sup> However, such symbols and images can also be used against the state. For example, the Assembly of the Poor carried pictures of the King and Queen and Thai flags during protests circa 1997 to display their commitment to the Thai nation. More recently protesters against the deposed Prime Minister Thaksin Shinawatra wore yellow clothing and placed yellow streamers on their cars (yellow being the Monachal colour) to display their contempt for the government.

<sup>53</sup> Andrea Whittaker maintains this argument in her contemporary examination of abortion and how “women’s bodies are used to represent and constitute the territory on which competing versions of the nation and cultural values are debated” (2004:68).

<sup>54</sup> Thaksin’s authoritarian rule has been frequently compared to the military dictator Field Marshall Sarit Thanarat (1958-1963). Sarit legitimated his authoritarian rule by incorporating capitalist development as an economic goal and as an ideology used to limit political activity – parliament, the constitution and non-state actors (Keyes 1987, Hewison 1997). Sarit was very much concerned with intimately connecting national identity with ‘Nation-Religion-Monarchy’ and maintaining national discipline through an

authoritarian law and order system of governing (McCargo & Ukrist 2005). Sarit's focus was on stability, order and national development (Saitip 1995). These were used to legitimate his rule and to oppose internal Communist threats which were constructed as being a danger to Thailand. Sarit drew upon a paternalistic notion of governing which suited his authoritarian and disciplining style (Keyes 1987).

<sup>55</sup> This has only been replaced by TRT's election victory in 2005.

<sup>56</sup> 'Money politics' refers to the vast sums of money used in campaigning and vote buying. Consequently elected officials use government positions and projects to recoup investments and build wealth (see Callahan and McCargo 1996; Pasuk and Piriyaarangsarn 1994). However, 'big money politics' extends the previous meaning to include the entering into politics by some of the wealthiest owners of domestic capital (Pasuk and Baker 2004:97).

<sup>57</sup> For a detailed analysis of Thaksin, his rise to power and his influence on the Thai politics see Pasuk and Baker (2004) and McCargo and Ukrist (2005).

<sup>58</sup> For a detailed analysis see (Pasuk and Baker 2004:149-155; McCargo and Ukrist 2005:188-199).

**PART II**

**PROFESSIONALISING HUMAN RIGHTS KNOWLEDGE  
AND PRACTICES**

## Chapter 5

### Organisational Change and Ordering Practice?

The apparent increasing order which characterises the expansion of developmental rationalities conceals increasing disjuncture between normative expectations and the multiplicity of practices which take place within ... [NGOs]. (Rossi cited in Lewis & Mosse 2006:3)

In the previous chapters I explored how Forum-Asia actors give meaning and form to human rights, the social production of Forum-Asia in terms of space and scale, and the operation of power between the state and civil society. In the remainder of the thesis I concentrate on the “paradox of professionalising” NGOs (Markowitz & Tice 2002), especially apropos the production of knowledge and adopting the language and practices of audit culture. One aspect of professionalising Forum-Asia has been to make organisational spaces and practices governable by auditing with a focus on improving efficiency, effectiveness and transparency.

In this chapter I explore one aspect of Forum-Asia’s professionalisation, which led to a split between the Forum-Asia Foundation, the Thai legal entity incorporated under Thai law to provide legal cover to the Secretariat, and the Secretariat commonly known as Forum-Asia. Central to people’s representations of the split was ‘culture’, which was used to demarcate differences based along ethnic lines of separation, and to conceptualise different types and styles of organisational practice. I situate such discourses about culture within the regime of professionalising NGOs.

To explore the split I focus on the discursive construction and the narratives of ‘culture’, both human and organisational. From this perspective ‘culture’ is “imbued with both enabling and constraining power effects” (Riad 2005:1529). That is, through the lens of professionalism, culture creates a sense of stability, order and completeness whilst also being used to promote change and signify difference. This chapter is organised in three parts. The first part outlines the key events surrounding the split, while the second part examines how the split was represented and given meaning. In doing so I examine how ideas and values of professionalism were given form and meaning, and contested and resisted in everyday practices.

## Setting the scene

In August 2005 I returned to Bangkok to visit Forum-Asia and discuss the progress of my research. Approximately six months beforehand I emailed a couple of former colleagues but never received a response. I assumed they were busy and simply forgot to respond. I then decided rather than pestering them with follow-up emails I would call them when I arrived in Bangkok and organise to catch-up. However, when I returned to Bangkok I was shocked to discover through a friend that there had been a split within Forum-Asia, between the Foundation and Secretariat. I asked my friend “how could this be, what happened?”<sup>59</sup>

This chapter draws upon actors’ representation of the split. These representations are not “facts as evidence” but rather “facts as experience”, reflecting the partial and incomplete sense of producing information as an experienced reality (Aunger 1995, Boyce 1996). In writing this thesis I am actively producing a story about the split. Rather than attempting to produce an objective and complete representation of the split, the story I present below is embedded within meanings ascribed to the experiences by Forum-Asia actors, as translated and interpreted by myself.

The stories I was told about the split were not confined solely to Forum-Asia actors. The human rights scene in Thailand is small and many of the people involved know each other, particularly the Thai leaders whose relationships extend back to the 1970s student movement era. Consequently the split within Forum-Asia was hot gossip within the NGO and human rights scene in Bangkok and I was fortunate to speak to some of these people and gain their insights into the events that unfolded. I also had access to many of the Secretariat documents, which provide a written account of what took place through emails and letters, and were compiled in documents submitted to Forum-Asia’s member organisations and the Executive Committee.

One of my interests in researching Forum-Asia was the change it was experiencing, particularly reasons behind this ‘need for change’ and how such change would affect Forum-Asia. The ‘need for change’ emerged as a response to a commissioned evaluation report in 2001 which made a set of recommendations concerning Forum-Asia’s programmes, networking and the administration of the Secretariat office (CSDS 2001:iv-v). A key recommendation from the report was the need for the Secretary



General to be removed from the daily operations and activities of the Secretariat. Instead an Executive Director position should be created which would report to the Secretary General but which had the responsibility to manage the daily operations of the Secretariat.<sup>60</sup> The Executive Director would also be responsible for continuing to reform Forum-Asia. Forum-Asia explained the “need to transform” in an Opportunity and Risk Appraisal document for a donor. Here I quote at length:

Forum-Asia underwent a process of internal evaluation in 2001, with staff and member organisations agreeing on the need to transform the Secretariat in Bangkok to increase the professionalism of the organisation. Forum-Asia has had to revise and develop internal management and work practices in order to improve efficiency and allow us to respond to the growth of the organisation and the changing situation in the region. To be able to do this, an outside expert in management was hired to develop a plan for ‘transformation of the Secretariat’, which was initiated in 2002, and will be completed in 2003.

The process will address areas such as the working relationship between partner and member organisations; planning, budgeting and reporting systems; communication and information management, the development of a clear organizational structure, and strategic and clear planning of programme activities. (Forum-Asia 2004a:3)

The document states that the *need* to professionalise Forum-Asia was to improve efficiency in management and work practices, be more responsive to the human rights environment in the region and be more accountable and transparent in how Forum-Asia operates. It is through the rubric of professionalism that organisational change was being implemented to “transform” Forum-Asia but with unexpected and lasting consequences.

### **Events surrounding the split<sup>61</sup>**

At Forum-Asia's 2004 General Assembly<sup>62</sup> the evaluation report and its recommendations were discussed. At this meeting the need for Forum-Asia to be more efficient and effective in its human rights programmes, whilst also increasing transparency and accountability measures became a powerful driver for the “need to transform”. Here there is a link between meeting donor requirements for funding such as adopting the practices of new managerialism, and the normative force of openness as Forum-Asia actors desired to work more closely with member organisations and be more accountable. This conceptualisation of change involved projecting a future position that the organisation would move towards by following a linear trajectory of

change, which would be coherent, time-bound and rational. However, any process of change also entails actors “encountering order and disjuncture” which takes account of these complexities, ambiguities, and competing actor interests (Lewis & Mosse 2006:10).

**Table 2: Chronology of key events surrounding the split**

2001 commissioned <i>Evaluation Report</i>	March – July 2005 tension over the financial decisions being made by the Secretary General. Anselmo and the Executive Committee requested a Memorandum of Understanding between the Secretariat and the Foundation. This was rejected by Ajan Gothom and Pii Somchai
2004 General Assembly discussed the report and decided on restructuring the Secretariat and having an Executive Director	May 2005 a staff member was suspended for ‘major misconduct’
2004 General Assembly Pii Somchai stood down as the Secretary General and in a separate process became the Secretary of the Forum-Asia Foundation	9 July 2005 the Executive Committee decided to call a special session of the General Assembly by 9 November 2005 to determine whether the Secretariat should register separately
2004 General Assembly Ajan Gothom Arya became the Secretary General of Forum-Asia and was also the Chairman of the Forum-Asia Foundation	12 July 2005 Ajan Gothom announced his resignation as Secretary General and to take place by 31 July 2005
2004 the Executive Director position was advertised and Anselmo Lee was successful in obtaining the position	19 July the Foundation informed the Secretariat that it had to leave the Foundation’s premises by 31 July 2005
2005 Anselmo become the full-time Executive Director	29 July 2005 Ajan Gothom attempted to terminate Anselmo’s contract. This was rejected by the Executive Committee
March 2005 tension between Anselmo and Ajan Gothom over who was responsible for managing the Secretariat	31 July 2005 the Foundation legally split from Forum-Asia
March 2005 the Executive Committee determined the Executive Director has the responsibility for managing the Secretariat	31 July 2005 the Executive Committee decided to take control of the Secretariat

Following the report’s discussion at the General Assembly a resolution was passed to create the position of Executive Director, which was to focus on the management and daily activities of the Secretariat. At this meeting Pii Somchai stood down as Secretary General and was replaced by Ajan Gothom Arya, who was also the Chairman of the Forum-Asia Foundation. In a separate meeting between board members of the Foundation, Pii Somchai became its Secretary. At the first Executive Committee<sup>63</sup> meeting after the General Assembly, Ajan Gothom proposed Pii Somchai for the position of Executive Director. The Executive Committee did not support Ajan Gothom’s proposal and a resolution was subsequently passed stating that a Thai national could not fill the Executive Director position.

This decision by the Executive Committee reflects two significant issues within Forum-Asia. Firstly, there was a perception that Forum-Asia was not truly a 'regional organisation' but rather 'Thai' because many staff were Thai including senior management, the Secretariat was based in Thailand, and many activities were held in Thailand.<sup>64</sup> During discussions with some interlocutors I was occasionally asked my thoughts on what type of organisation I thought Forum-Asia was. I would respond describing Forum-Asia as a 'regional NGO', which was reflected in its membership, governance structures and activities. However, due to its location in Bangkok, key actors in the Secretariat and its network consisting of prominent and influential Thais, I also considered Forum-Asia an important NGO within Thailand. Consequently I saw Forum-Asia both as a 'Thai', 'regional' and 'international' NGO in its practices, power and politics.

Secondly, the governance of Forum-Asia was based on personalised relationships, and some critics argued it was personality driven. This is suggested by Ajan Gothom's proposal for Pii Somchai to be the Executive Director, and the hiring of many staff based on personal networks. The Executive Committee's objection was aligned with donors concerns that Forum-Asia was becoming a "Thai Forum for Asia" suggesting there were too many Thais in senior management positions and activities being held in Thailand (Interview August 2005).

The split between the Foundation and Secretariat emerged as a result of reforms introduced by Anselmo. This is not to suggest that Anselmo was the reason for the split, but rather, he was an important actor who was part of the changing environment within Forum-Asia. Prior to taking up the Executive Director position Anselmo spent eight years in Geneva working for Pax Romana<sup>65</sup> as the Secretary General, and was one of the few Asian heads of an international NGO. He was also a board member of CONGO (Conference of NGOs in Consultative Relationship with the United Nations) and learnt about United Nations operations and lobbied heavily for the rights of human rights defenders. In 2002 CONGO initiated an Asian Civil Society Forum which was hosted by Forum-Asia in Bangkok. The aim of the forum was to strategise how regional advocacy NGOs could be more effective in working together and creating a regional bloc to advocate for human rights. At the Forum Anselmo began developing a working relationship with Pii Chalida and Kang from Forum-Asia.

In 2004 the Executive Director position was advertised and Pii Chalida approached Anselmo and asked him whether he was interested in applying. Anselmo discussed the position with some colleagues who worked in the region and at the international level on human rights. They questioned why Anselmo wanted to join Forum-Asia, as they saw it as being 'Thai' rather than 'regional'. Others also argued that Forum-Asia could not be reformed. However, Anselmo's decision to join Forum-Asia was largely influenced by the 2004 Asian Civil Society Forum where over 400 people from across the region attended and Anselmo saw the potential for Forum-Asia to lead this movement, and more generally the region, in the promotion and protection of human rights in Asia. Ultimately, Anselmo applied for the position and was successful. From October to December 2004 Anselmo began working at Forum-Asia on a part-time basis, as he still had to finish work at Pax Romana. In January 2005 Anselmo became the full-time Executive Director.

A significant point of tension between Anselmo, and Pii Somchai and Ajan Gothom was who headed and ran Forum-Asia – the Secretary General or the Executive Director. Anselmo saw his role as managing the day-to-day running of the Secretariat. However, Pii Somchai and Ajan Gothom saw the Executive Director position as an assistant to the Secretary General. To resolve this issue it was taken to the Executive Committee on 19 March 2005, which determined that the Executive Director was responsible for managing the Secretariat and the Secretary General would chair the Executive Committee and monitor the restructuring of the Secretariat. This decision was consistent with the resolution passed by the General Assembly in 2004 and the Evaluation report recommendations.

Another point of tension was the financial decisions being made by the Secretary General. Anselmo had the view that the Executive Committee, in accordance with Forum-Asia's policy, was the appropriate decision-making body to determine the funding of programmes and not the Secretary General alone. The issue of financial decision-making concerns the governance structure between the Secretariat and the Foundation. As the legal entity the Foundation received the funding, but as the funding was to deliver the Secretariat's programmes, Anselmo thought the Secretariat, in line with the role of the Executive Committee, should have the authority and responsibility to determine the funding of programmes.

To clarify the relationship and responsibilities between the two bodies Anselmo requested a Memorandum of Understanding (MoU) between the Foundation and Secretariat. A MoU was previously not necessary because both Pii Somchai and Ajan Gothom were involved in the management and financial decision-making of Forum-Asia's campaigns and activities, and were both board members of the Foundation. When Anselmo raised this issue with the Executive Committee it also requested a MoU and stated that the Foundation was accountable to Forum-Asia through the Executive Committee. In a letter to a funding body, Ajan Gothom stated that the Foundation would agree to a MoU "based on mutual benefit" but he did not clarify what this meant. Despite Ajan Gothom's offer, Anselmo explained that Pii Somchai and Ajan Gothom rejected this request because they viewed the Foundation as independent from the Secretariat, Executive Committee and General Assembly.

In an attempt to resolve the dispute Ajan Gothom attempted to mediate the differences between Anselmo, and Pii Somchai and himself but without success. One consequence of this conflict was that it engulfed the entire Secretariat. For example, Anselmo described how some staff, especially some of the Thai staff, were worried because they felt they worked for Ajan Gothom when he was the Secretary General but were being directed by Anselmo. Consequently staff would contact Ajan Gothom to discuss tasks delegated to them by Anselmo. Claims were also made by some staff against Anselmo that his style of management was autocratic. For example, Ajan Gothom stated in a letter to the Executive Committee that Anselmo showed "little respect to his subordinates especially the Thai staff to whom he often had tough words".

A staff member was also suspended for one month for "major misconduct" after writing an email to a South Asian member organisation and expressing his concerns about the Secretariat's restructuring process and the management team. The staff member also suggested that the Executive Committee should consider the resignation of the management team, which was made up of Anselmo, Pii Chalida and Kang, and that a South Asian member organisation should be represented on the Executive Committee. The staff member provided a written explanation of their actions detailing their frustrations with organisational issues and their work situation. Despite the issues raised, other staff were of the opinion that the staff member publicly raised their frustrations because of the person's under performance at work.

Part of restructuring Forum-Asia involved the recruitment of staff. Some actors perceived other staff as under performing and they did not support the view that people's motivations and commitment to human rights were the sole requirement to work for a human rights NGO. Instead they thought actors' technical skills, knowledge and ability were pre-requisites to gaining employment with a professional NGO. During the restructuring process Anselmo required all staff to reapply for their positions to ensure all staff met the required standards. However, some staff saw this as an attempt by Anselmo to retrench staff opposed to him. This increased tensions within the office and following approximately six months of change 11 staff members resigned. In their resignation letter they spoke of the painful process of restructuring which left "unresolved issues [that] have led to such a breakdown in organization relationships that many of us [the staff] feel uncomfortable continuing to work in the Secretariat". Anonymous actors also used Forum-Asia's server to send emails to Forum-Asia staff and other actors connected to Forum-Asia that were offensive and malicious to certain other Forum-Asia actors.

On 12 July 2005 Ajan Gothom announced his resignation as Secretary General of Forum-Asia and the separation between the Foundation and the Secretariat, which would both take place by 31 July 2005. On 19 July 2005 the Foundation also informed Forum-Asia that it had to leave the Foundation's premises by 31 July 2005. The Foundation explained that this was in response to the Executive Committee's decision on 9 July 2005 to call a special session of the General Assembly by 9 November 2005 to determine whether the Secretariat should register separately as a Foundation in Thailand. To intensify matters further on 29 July 2005 Ajan Gothom attempted to terminate Anselmo's contract and wrote to donors advising them that Anselmo was no longer the Executive Director. In response Anselmo took the matter to the Executive Committee which rejected the termination. The Executive Committee was furious that Ajan Gothom made the decision without its input and approval. The Executive Committee then wrote letters to donors dismissing the claims made by Ajan Gothom.

In response to these events the Executive Committee made a decision to take control of the Secretariat and on 31 July 2005 the Foundation legally split from Forum-Asia.

## **Contested meanings and representing the split**

The organisational change described above stemmed from the recommendations contained in the 2001 *Evaluation Report*. As I describe in detail in the following chapter, the report inscribes the need for Forum-Asia to imbed an audit culture through audit practices including administrative and management systems, project development and technical knowledge and expertise. This is to make Forum-Asia amenable to auditing and following the rubric of professionalism to be efficient, effective and transparent. In implementing these reforms and the resulting split between the Foundation and Secretariat, interlocutors described the issues in terms of personalities and politics; culture; organisational change; and management and leadership styles. These representations provide entry points into understanding how professionalism is given form and meaning, as well as contested and resisted. I now turn to exploring these representations.

### ***Personalities and politics***

An overarching theme when discussing the split was neatly captured by the phrase “personalities and politics” (Interview August 2005). The expression was used to illustrate the tension existing between, and different positions taken by, Anselmo on the one hand, and Pii Somchai and Ajan Gathom on the other. Here the prominent agents of change within Forum-Asia were central to the organisational politics, and the ensuing conflict and resistance that took hold across the organisation. In elaborating on what the phrase means, my interlocutor explained that personal and situational factors were at play between the “two groups”, which were motivated both by their interests in the organisation and where it was heading, and self-interest. Here the inclusion of ‘self-interest’ implies organisational politics is more than influencing the direction of change, but also includes benefiting individual or minority interests at the expense of the organisation.

In raising the issue of personalities my interlocutor explained that there was a perceived personality clash between Anselmo, and Pii Somchai and Ajan Gothom, which was based upon different management and leadership styles (Interview August 2005).<sup>66</sup> Another interlocutor suggested that the “personal dynamics existing” between Anselmo, and Pii Somchai and Ajan Gothom were part of the reasons for the conflict. They

explained that “there was a bias feeling towards Anselmo. He just arrived, wanted to change everything and went against Pii Somchai and Ajan Gothom”. Another interlocutor thought that Ajan Gothom wanted to manage change within Forum-Asia “slowly” even though “slowly” was never spelled out to Forum-Asia staff or stakeholders, whereas Anselmo wanted to implement his reforms quickly (Interview August 2005).

The issue of politics is also illustrated by the disagreement over whether the Executive Director or the Secretary General had overall responsibility for the Secretariat, both in terms of daily management and determining the funding of Forum-Asia’s programmes. Both Anselmo and Pii Somchai and Ajan Gothom explained these issues in terms of authority, responsibility and accountability. Anselmo took the position that the Foundation should be responsible to Forum-Asia’s Executive Committee and that the Executive Director should lead and manage the Secretariat. In contrast, Pii Somchai and Ajan Gothom argued that the Foundation, as a separate legal entity from the Secretariat, should not be accountable to the Secretariat or the Executive Committee. To resolve this matter it was taken to the Executive Committee on 19 March 2005, which determined that the Executive Director was responsible for managing the Secretariat and the Secretary General would chair the Executive Committee and monitor the restructuring of the Secretariat. Interlocutors explained this “power play” as a result of the conflict and resistance to the changes being pursued by Anselmo which was supported by Pii Chalida and Kang (Interview August 2005).

The suspension of a staff member for “major misconduct” also demonstrates the politics involved during this period of organisational change. Some staff were of the opinion that connected to this resistance was the staff member’s under performance at Forum-Asia and this person’s desire to remove members of the management team who were critical of this person’s performance. Further, the attempt to push for a ‘South Asian’ member organisation to be on the Executive Committee was an attempt to alter the sub-regional make-up of the Executive Committee and promulgate the idea that there was a bias on the Committee and a lack of a ‘South Asian’ perspective.



*Forum-Asia's culture*

When talking to Forum-Asia actors about the split, 'culture' was frequently raised as a partial explanation. Interlocutors explained that "Anselmo was trying to change the culture within Forum-Asia but Pii Somchai and Ajan Gothom would not change" (Interview August 2005). In contrast others suggested that "Anselmo didn't understand Forum-Asia's culture and how it operated. He [Anselmo] has to work with everyone for change to last and to not create conflict" (Interview August 2005). Other actors discussed how staff were "taking sides" based on people's national identity. Here the split was represented as between 'Thais' and 'non-Thais' and culture was used to demarcate differences based on ethnic and cultural lines. Cultural differences were projected onto organisational practice and politics.

Here culture is entwined with organisational practice. In organisation studies, 'culture' is often codified as a set of variables used to change organisational practice and is represented through management techniques and made authoritative through publications, reports and surveys to measure, define and change it (Riad 2005:1532). From this perspective 'culture' is seen to be produced within organisational structures, projects, activities, values, policy and other organisation material (Barinaga 2007, Lewis et al. 2003, Lewis 2003, Martin 1992, 2002). However, such constructs of 'culture' also reproduce and maintain the power effects of this discursive formation, whereby 'culture' is endowed "with an external, independent existence" (Barinaga 2007:318). In the case of Forum-Asia this concerns the construction of difference between Thailand and other parts of the region. However, these discourses are never stable and complete, with competing meanings and counter-hegemonic discourses contesting understandings of culture and 'Thai-ness'.

*'Thais' and 'non-Thais' in Forum-Asia*

To examine the use of culture by Forum-Asia actors it is necessary to go back to Thai studies debates on culture and identity. Previously in chapters two and four I explored 'Thai-ness' and its use in constructing borders for political purposes. Hans-Dieter Bechstedt consummately portrays the construction of being Thai:

Compared with most of their neighbours the Thai people seem to have a strong and clear picture of what is needed to be a Thai, a perception maintained in popular culture and religious activities and passed on through the values and standards of parental and formal education. This fact is usually attributed to Thailand's relative ethnic homogeneity and the country's 'escape' from colonial subjugation. It is further related to a high identification with a specific cultural and traditional heritage, which is supported and strengthened by the ruling elite, whether it be the monarchy, the military or the business sector. (Bechstedt 2002:239)

The "absent presence" of Thailand's experience of colonialism suggests David Streckfuss, is "a bizarre historical plot that gives colonialism, made conspicuous by its absence, a leading role in the narrative of the nation" (Streckfuss 1993:123). This idea of "escape" as referred to by Beschstedt above, is what Michael Herzfeld calls "crypto-colonialism", a "special kind of political marginality ... articulated in the iconic guise of aggressively national culture fashioned to suit foreign models". Significantly therein lies a paradox of Thailand's simultaneous independence and dependence on colonial influence (Herzfeld 2002:900-901).

Before leaving for Thailand I studied 'Thai-ness'<sup>67</sup> in Thai studies,<sup>68</sup> and discussed it in class in Thailand and whilst conversing with locals and foreigners in Thailand. Emerging from these conversations were dominant discourses that Thais uphold and support the Nation-Monarchy-Religion and that *pii-nong* relations (which scholars conceptualise as client-patron relations) explain how Thais engage with each other and would with me. *Pii* refers to an elder sibling and *nong* a younger sibling. From this perspective Thai society is hierarchically structured and social relations are based on superior and inferior positions, and other cultural practices such as *bun khun*<sup>69</sup> and *kreng jay*.<sup>70</sup> *Bun khun* is to express gratitude for previous good deeds or acts such as children expressing and displaying *bun khun* to their parents for raising, protecting and providing for them. *Kreng jay* is loosely translated as the consideration of others. However, it also involves being careful not to offend or upset others, particularly people of higher social status. Tied to this practice is the constant desire to avoid the other person 'losing face'. Both terms – *bun khun* and *kreng jay* – also reinforce the importance of conflict avoidance and social harmony, at least on the social surface, and are intimately connected to hierarchical social structure.

Presumably social stability and harmony is maintained by actors knowing their social position and demonstrating this through bodily acts, gestures, manners and speech.

Further, *pii-nong* relations are seen to pervade formal genealogical structures of Thai kin relations, so that there are no equals. Thus, Thai identity and 'Thai-ness' in this view conforms to an image of respectful submission to authority of elders and seniors (state officials, family, Buddhist institutions, teachers and the monarchy) and a social system based on hierarchy and deference in the context of obligation and appreciation. This is achieved by instilling "power, patronage and protection" through the public education system, bureaucracy and media (Bechstedt 2002:241-247, Mulder 1996, 1997, Thongchai 1994:3-6).

Even though the focus of these discourses is relations between individuals and broader social networks, they are also extrapolated to relations between individuals and the state, so that the King is the symbolic 'father' of the Kingdom. Despite the prevalence of this naturalised understanding of *being* Thai and 'Thai-ness', I was reluctant to accept such a unitary and overarching account of culture that fully explained Thai social relations. Anthropologists have long been questioning 'the culture concept' as monological and entailing order, stability and completeness (see Steedly 1999:440-444, Keane 1997, Merry 2003a, Wright 1994b). During my time in Thailand I observed many contradictions to and contestations of these hegemonic understandings of *being* Thai. This included seemingly trivial events such as an Indonesian friend being mistaken for Thai and Thai friends being mistaken for Chinese or Malay.<sup>71</sup>

I also observed how relations did not always neatly fit client-patron dyads as conceptualised in *pii-nong* relations.<sup>72</sup> For example, social hierarchy might be enacted to demonstrate a difference in status, however, this does not ensure that the ensuing roles and obligations were always performed or fully met. In the case of the split, expectations of Thai hierarchical deference were confounded and not all Thai actors in Forum-Asia followed Pii Somchai and Ajan Gothom. For example, Pii Chalida and Pii Maow, stayed with the Secretariat and Ambassador Asda,<sup>73</sup> an adviser to Forum-Asia and part of the Executive Committee, was in conflict with the Foundation and disagreed with Pii Somchai and Ajan Gothom's handling of the issues. The construction of 'Thais' and 'non-Thais' reflects the pervading nationalist model of culture used to define difference and to exclude.<sup>74</sup> In Forum-Asia difference and opposition were constructed as being 'non-Thai', culture had thus come to signify *difference* (Scott 2003:103-104).

Prior to the split approximately 70 per cent of staff were Thai. Consequently some staff perceived a “local [Thai] cultural dominance within Forum-Asia” which was at the expense of “having the cultural diversity of a regional NGO”. I asked my interlocutors to explain further what ‘local cultural dominance’ meant and how this affected Forum-Asia. They responded by discussing how civil society reproduces social inequality, and how Thai NGOs create organisational cultures based on hierarchy and deference. This meant that junior staff followed senior management without questioning decisions and there was minimal space allowed for internal debate and participation. Pii Chalida also explained that this resulted sometimes in a minimal critique of practices, programmes and policies, and that Thai staff would wait for Pii Somchai or Ajan Gothom to determine what to do rather than make decisions (Interview August 2005).

During my time as an intern many actors discussed the central role Pii Somchai had in determining Forum-Asia’s programme. This was also reflected in the Evaluation Report and recommendations were made to transform this practice. Despite such criticism of Pii Somchai’s central decision-making role many staff had great admiration and loyalty to him. For example, some actors felt that the resignation of the 11 staff, as outlined above, was due to their loyalty to Pii Somchai.

During this period within Forum-Asia, Pii Chalida remained vocal in publicly questioning all parties, especially on issues concerning accountability, transparency and how best to restructure. Some Thai staff labelled Pii Chalida as ‘un-Thai’ because she did not remain loyal to Pii Somchai and leave Forum-Asia. Two other Thai staff who also stayed with Forum-Asia discussed how they were initially critical of Pii Chalida. In raising their issues with her, Pii Chalida responded by suggesting that they first consider the issues facing Forum-Asia before taking a position rather than following the other Thai staff. After examining the issues, these staff decided that the restructuring Anselmo was implementing was good for Forum-Asia and they would continue working there (Interview August 2005).

I also probed the meanings ascribed to the value of ‘cultural diversity of a regional NGO’. It was explained that “Forum-Asia should reflect the cultural make-up of its member organisations and be more diverse rather than having mainly Thais working at Forum-Asia”. I questioned whether this is what ‘cultural diversity’ meant? They said that it was more than just having an increased representation of different Asian

nationalities but that they should also be “multicultural”. They went on to explain that “a more inclusive culture” had to be developed within the organisation where people were able to participate in decision-making and people were able to question decisions (Interview August 2005). Interestingly discourses about organisational practice were entwined with issues of cultural diversity when explaining the conflict within Forum-Asia. The conflation of the two reflects how culture is promulgated to capture different organisational practises including management styles and decision-making processes, whilst also being used to explain behavioural differences based on ethnic boundaries. This was reflected in the difficulty my interlocutor had in explaining what they meant by “cultural diversity of a regional NGO”.

However, my interlocutor also recognised that since the Secretariat was based in Bangkok, it was difficult for Forum-Asia to employ foreigners under Thai labour laws as applications have to be made to the Ministry of Labour and other agencies are also required to consider the applications. This process can take considerable time and expense and is not always successful, particularly for human rights organisations (Interview August 2005). Consequently many foreign NGO workers enter Thailand on tourist visas and leave the country every 30 or 60 days (field notes and Interviews 2004 and 2005).

Ajan Gothom, Anselmo and Pii Chalida also raised the issue of trust. In a letter to Forum-Asia and donors, Ajan Gothom discussed the issue of trust between the Foundation and Secretariat:

FA-FAF relation has always been good and based on mutual trust, it is however complicated by local legal constraints ... FAF's Board members have been acting as a group of 'Trustees'. Unfortunately, unfound [sic] suspicion has been created and FAF's Board is not in a position to act as a group of 'Trustees' any more.

Previously a positive relationship existed between the Foundation and Secretariat as it was built upon the personal relations existing between the two bodies, particularly Pii Somchai and Ajan Gothom, along with other Foundation board members. Anselmo explained that distrust had developed between the Secretariat and the Foundation because he questioned prevailing practices and the authority of the Secretary General but only to ensure that proper procedures were in place and that Forum-Asia was transparent and accountable. Pii Chalida saw Anselmo as wanting to establish trust

between staff, by linking different sections together and building a collaborative approach to Forum-Asia's work. Ajan Gothom perceived a break down of trust because Anselmo questioned his and Pii Somchai's actions and authority, whereas for Anselmo distrust was created because of Pii Somchai and Ajan Gothom's responses to his actions, which he maintained were legitimate given his role as the Executive Director. For Anselmo, he was concerned with making Forum-Asia more accountable to its member organisations for the decisions being made about the allocation of funds to projects and programmes.

### *Organisational change*

Interlocutors also considered organisational change as a partial reason for the split. For example, Pii Somchai explained the split as a "gap in understanding" between himself and Ajan Gothom, and Anselmo about implementing change and restructuring the Secretariat. This gap included understanding of the roles of the Secretary General and Executive Director, the relationship between the Foundation and the Secretariat, and management and leadership styles. Other interlocutors also discussed the issue of "how to implement change" and "what does change mean for Forum-Asia?" An interlocutor used the metaphor of a jigsaw puzzle and explained that under Pii Somchai the jigsaw pieces fitted together, but with Anselmo as the Executive Director and the reforms he was introducing, the pieces no longer connected (Interview August 2005). Interlocutors also discussed the need for "cultural fit" in Forum-Asia, as it was under Pii Somchai. This idea of "cultural fit" is used to signify difference and identify issues of organisational integration (Riad 2005:1530-1532, Alvesson 2002, Lewis 2003, Martin 2002).

In discussing the issue of organisational change, Pii Chalida reflected on Forum-Asia's experience and observed that "with change one needs to be open and self critical and willing to change but this can be painful and does not always lead to a happy ending". Pii Chalida considered this to be the case with Forum-Asia as "not everyone was willing to change for the benefit of Forum-Asia". Pii Chalida further explained that the professionalising of Forum-Asia required "a new style in management and Anselmo had the necessary skills and experiences to lead Forum-Asia in a new direction". This 'new direction' included "Forum-Asia playing an increasingly important role in regional and international advocacy, such as at the United Nations, and representing member

organisations from across the region”. To achieve this goal staff had to be technically skilled to operate in this new environment of increased regulation and accountability requirements as well as to engage with funding bodies, member organisations and other regional and international actors. I asked Pii Chalida why she supported Anselmo and the restructuring he was pursuing. Pii Chalida explained that during her ten years with Forum-Asia she worked with many people on human rights in the region and felt a part of history making. For Pii Chalida, Anselmo’s work was continuing to make this happen and improve Forum-Asia’s performance in leading the region on human rights. Pii Chalida elaborated that change cannot be stopped and that she wanted to be a part of the change in Forum-Asia (Interview August 2005).

Anselmo was far more critical on the issue of organisational change, particularly in relation to what he saw as “the gap between rhetoric and practice” of Pii Somchai and Ajan Gothom. Anselmo suggested that reforming an organisation requires an internal critical perspective and willingness to change, but that this was not the case within Forum-Asia, particularly since relations of power would also have to change. He linked this with the “self-righteousness of some NGOs” who criticise states and governments but are far less willing to change themselves, explaining that “because Pii Somchai and Ajan Gothom do good work they don’t feel compelled to change” (Interview August 2005).

We can see from the above that organisational change is neither coherent, nor rational and does not travel along a predetermined path. Instead organisational change as a material outcome occurs through a continuous process of meaning-making, which involves many actors with different interests and interpretations of the planned change, whilst engendering multiple visions of the end result (DiBella 1992:62-64). Therefore the illusory nature of change as ‘ordered’ requires its truth effects to operate as hegemony. But such claims to order are contested and never complete (Li 1999). The organisational change experienced by Forum-Asia actors illustrate that change is a fragmented process involving continual interpretation and reinterpretation, and entailing conflict and resistance between the actors attempting to assert their meanings of what Forum-Asia *is* and *will be*.

### ***Management and leadership styles***

The differences imputed between Anslemo on the one hand, and Pii Somchai and Ajan Gothom on the other, resonates with the depiction of two styles of leadership – charismatic and professional in organisational studies. Charismatic leadership is relational and based on perceived attributes and behaviours on the part of the leader who can “formulate and articulate an inspirational vision by behaviors and actions that foster an impression that they and their mission are extraordinary” (Conger et al. 2000:748). In contrast professional leadership is based on technical skills and knowledge, and managerial practices (Bryman 1992). The NGO literature is dominated by discussions on charismatic leaders, especially when examining the development of Southern NGOs (Smillie & Hailey 2001, Hailey & James 2004, Siddiqi n.d.). However, with the professionalising of NGOs and the emphasis placed on new managerial techniques, scholars and practitioners are beginning to explore professional or institutional models of NGO leaders (see Smillie and Hailey 2001).

Interlocutors suggested that Pii Somchai’s style was personality-driven and based on personal ties, whereas Anslemo’s management style was seen as embodying professional and institutional skills. For example, when Pii Somchai was Secretary General for approximately ten years he was seen by many actors internal and external to the organisation as ‘*being* Forum-Asia’, thereby representing a unified and coherent whole. Pii Somchai was also crucial to Forum-Asia’s networks with funding bodies and Thai government officials, and the employment of Forum-Asia workers since many managers had personal relations with Pii Somchai extending back to the student movement of the 1970s. What should be stressed is that all forms of management are embedded within social relations where personalities and interpersonal relations pervade styles of management.

Interlocutors discussed the situation in Thailand where a handful of influential and important people are involved in many NGOs and where there is thus the potential for conflicts of interest. Pii Chalida explained that in Thailand this is seen as creating links, however, elsewhere it might be seen as problematic as “some people wear too many hats” and thus conflicts of interest emerge. This issue was discussed in relation to Pii Somchai and Ajan Gothom and their interests both in the Foundation and the Secretariat. An interlocutor stressed that Ajan Gothom should not have held two



positions simultaneously within Forum-Asia, as both Chairperson of the Foundation and Secretary General of Forum-Asia. Similarly as Pii Somchai stepped down from the Secretary General position and then was appointed Secretary of the Foundation, power and decision-making was still concentrated between them both.

Some interlocutors also considered that Pii Somchai and Ajan Gothom did not have enough time to do the job properly due to other commitments. For example, Pii Somchai was a partner of a law firm and involved with the Thai Law Society, and Ajan Gothom was Chairman of the National Economic and Social Advisory Council, Secretary General of the ad hoc National Reconciliation Commission and involved in numerous democracy and human rights issues in the country. Other organisational issues raised included claims of too many administrative staff and not enough programme staff, and a need for staff with expertise and technical skills to be paid higher salaries.

On reflection an interlocutor suggested that the split would have eventually happened due to the problems facing Forum-Asia, particularly its organisational structure and management styles. They went on to further explain:

It was time to bring out all the problems facing Forum-Asia. Forum-Asia needed to change for it to continue and improve. We also needed to consider how Forum-Asia will be seen in the region. Forum-Asia should work with member organisations, not lead but assist. In Thailand Forum-Asia leads and Thai members are weak. We need other NGOs to become members so the regional group will be strong. (Interview August 2005)

### **After effects of the split**

In this section I consider some of the possible effects stemming from the split and in particular Forum-Asia's position in Thailand. One effect of the split has been that the Thai member organisations of Forum-Asia have resigned as members. Pii Chalida explained that when she attended subsequent human rights meetings in Thailand some people questioned her commitment to the NGO movement and human rights because of her perceived disloyalty to Pii Somchai and Ajan Gothom. However, Pii Chalida also described more positive instances of a few Thai NGO workers who were mature enough to continue working with her and Forum-Asia (Interview August, 2005).

Some people outside Forum-Asia questioned whether Forum-Asia would be able to work on or ‘touch’ sensitive issues in Thailand as Forum-Asia no longer had a “Thai face”. This is because prominent and influential Thais such as Pii Somchai, Ajan Gothom, Professor M.R. Prudhisana Jumbala (a member of the Forum-Asia Foundation with ‘M.R.’ denoting a royal title), and the host member organisation Union for Civil Liberty (which was founded in 1973 after the downfall of the military regime), were no longer part of its networks. Forum-Asia also recognised that it may face difficulties in the future with the Thai state, yet three years have passed since the split and Forum-Asia continues to have a strong presence in Thailand and in the region. When the military coup took place on 19 September 2006 Forum-Asia, along with some human rights and democracy groups in Thailand, publicly campaigned denouncing the military coup and calling for restoration of democracy and removing the military from politics. Forum-Asia also criticised the military government for curtailing anti-coup demonstrations and weakening human rights provisions in the new Constitution.<sup>75</sup> Forum-Asia presently works with local NGOs as part of a coalition of NGOs working in Southern Thailand. This is to build a stronger front and is also a strategy to ensure Forum-Asia is not seen as the sole instigator.

## Conclusion

This chapter explored one aspect of the professionalising of Forum-Asia, the “transformation of the Secretariat” (Forum-Asia 2004a:3) under the leadership of Anselmo, which ultimately led to a split between the Forum-Asia Foundation and the Secretariat in 2005. I suggest that the transformation was to make Forum-Asia’s spaces and practices governable with a focus on improving efficiency, effectiveness and transparency. Despite recognising the ‘need for change’ and how this would be achieved, the resulting split brought into question the premise of *ordered* change as constructed through the prism of professionalism.

This chapter examined the meanings Forum-Asia actors gave to the split and ‘culture’, both human and organisational, was used. The position of culture under the rubric of professionalism was to create a sense of stability, order and completeness and to signify difference based along ethnic lines of separation. The split illustrates the complexity and unpredictability in understanding organisational change and practice, and how professionalism is contested and resisted in daily practices.

The resulting split made clear the illusory nature of ‘change’ being ordered, coherent and occurring in a linear progression of time. Paradoxically change rests upon the assumption that organisations are stable, complete and bounded entities able to adopt a unitary understanding of direction in the change process. The case of Forum-Asia rather suggests that all actors continuously negotiate the meaning of the organisations and its practices, and through engaging issues of power, conflict and resistance results. Thus every attempt can be made for organised change to lead to a predetermined end, but this negates the internal workings and “entanglements of power” (Sharp et al. 2000) within organisations where implementing change is a process of constant interpretation and contested meanings.

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## Notes

<sup>59</sup> I was intrigued to discover why the split occurred because Forum-Asia was seen as a successful human rights organisation in the region. At the time of my initial research in 2003-04, Forum-Asia was increasing its membership, funding and programmes. The Foundation was also integral to the establishment of the Secretariat in Bangkok and people such as Pii Somchai and Ajan Gothom were instrumental in establishing Forum-Asia and the success it achieved. Yet with my research hat on I was also wondering what implications this would have for my PhD.

<sup>60</sup> Please see chapter seven for a critical analysis of the Evaluation Report.

<sup>61</sup> See Table 2.

<sup>62</sup> The General Assembly is the peak decision-making body of Forum-Asia where all member organisations determine Forum-Asia’s three year plan of activities.

<sup>63</sup> The Executive Committee is a decision-making body, which meets between General Assemblies and is made up of member organisations and the Secretary General. Meetings can be called when necessary to handle matters and make decisions.

<sup>64</sup> Here I use inverted commas to denote the constructed nature of an organisation being ‘Thai’, ‘local’, ‘national’, ‘regional’ or ‘international’. My interest is in the meanings actors ascribe to the organisation and practices rather than defining what a ‘Thai’ or ‘regional’ NGO is.

<sup>65</sup> Pax Romana was founded in Rome in 1947 as an international association of Catholic professionals and intellectuals. Its international Secretariat is in Geneva.

<sup>66</sup> This issue is explored below under the section ‘Management and leadership styles’.

<sup>67</sup> See chapters two and three for a discussion on ‘Thai-ness’.

<sup>68</sup> Thongchai argues that Thai studies can be conceptualised within power/knowledge relations as an “official or hegemonic discourse operating in its own particular cosmos over the subordinated or marginal ones” (1994:9).

<sup>69</sup> *Bun khun* is to express gratitude for previous good deeds or acts. For example, children expressing and displaying *bun khun* to their parents for raising, protecting and providing for them.

<sup>70</sup> *Kreng jay* is loosely translated as the consideration of others. However, it also involves being careful not to offend or upset others, particularly people of higher social status. Tied to this practice is the constant desire to avoid the other person ‘losing face’. Both terms also reinforce the importance of conflict avoidance and social harmony, at least on the social surface, and are entwined within the hierarchical social structure.

<sup>71</sup> The first instance occurred in a restaurant when a waiter spoke to my friend in Thai. I told the waiter that my friend could not speak Thai. The waiter responded saying that she thought he was Thai because he “looked Thai”.

<sup>72</sup> I acknowledge that as a Caucasian foreigner, known as *farang*, I could be placed simultaneously inside and outside the Thai social hierarchy, depending on the context of the situation, i.e. what type of engagement or relationship I was involved in, the people (their status, age, etc.) and the issues involved. My observations and interactions were also primarily with people in urban settings, both professional and personal.

<sup>73</sup> Ambassador Asda is a retired Thai diplomat whose posts included Thailand’s permanent mission to the United Nations in New York.

<sup>74</sup> It also becomes a backdrop within politics and nationalist movements, such as immigration being tied to debates on national security and foreign ‘diseased’ bodies, and the economy where critics of foreign investment and the global economy raise concerns about foreign ownership of Thai businesses. For example, public discourses about economics and globalisation frequently refer to the 1997 Asian financial crisis, which the ‘West’ is blamed for. In response to the opening-up of the Thai economy proponents have articulated alternative economic models of self-sufficiency, which are also tied to Buddhist teachings of non-materialism (see Reynolds 2002a).

<sup>75</sup> See Forum-Asia’s website: [www.forum-asia.org](http://www.forum-asia.org).

## Chapter 6

### Audit Culture: Documentary Practice and Governable Spaces

What is being tested would seem to be the performance and productivity of [NGOs], but 'everyone knows' that what is being tested is how amenable to auditing their activities are or how performance matches up to performance indicators. What intrigues me is that here people both deploy, and are sceptical about deploying, visibility as a conduit for knowledge. (Strathern 2000c:309-310)

The promotion of human rights by Forum-Asia is based upon international human rights law which is promulgated through campaigns and programme activities. Within Forum-Asia these norms are expressed in its organisational values and principles. From this perspective Forum-Asia enacts the ideals, values and behaviours of human rights, and their tireless work clearly reflects this. Yet if our viewpoint changes from the values and practices of promoting human rights externally to the inner workings of Forum-Asia, a different set of values and practices emerge that are connected to the language of audit culture – performance (efficiency and effectiveness), accountability and transparency. I suggest this perspective provides an insight into how human rights are practised today and how they are increasingly shaped by values embedded within discourses of professionalism and the new managerialism.

In taking this approach I examine an *Evaluation Report* of Forum-Asia which was the catalyst for the reforms introduced by Anselmo Lee that ultimately led to the split between the Forum-Asia Foundation and Forum-Asia (see chapter five). I contextualise the report within the documentary practice of 'audit culture', which Marilyn Strathern argues "is the immediate starting point for an anthropological enquiry into some of the impacts of new ways of practising, or performing, 'accountability'" (2000b:2). This chapter challenges the purpose and usefulness of the accountability regime practised by NGOs and presents two key arguments. First, accountability practices are not neutral and apolitical, but rather are an instrument or technology to discipline and shape practice. Second, the knowledge produced from audit practices does not adequately capture organisational performance and conceals the partiality and the social, spatial and material character of knowledge. I therefore outline an alternative framework for understanding and practising accountability which shifts relations of power in terms of

how NGOs are constituted, vis-à-vis, donors and states, and instead concentrates on experiential learning with the aim of improving practice.

The chapter is structured in three parts. The first part considers documents as a site for anthropological inquiry and examines the constitution of the *Evaluation Report*. The second part critiques the accountability regime by examining its purported aims and contrasts these with actual effects. The third part outlines an alternative framework for NGO accountability based on experiential learning.

### **Anthropologising documents: the Evaluation Report**

Documents seem mundane, ordinary and boring, so what could be their usefulness in understanding NGO practices? Instead I suggest that documents should no longer be considered passive instruments or technologies of human agents but rather active in the production of knowledge and maintenance of human relations. Annelise Riles conceptualises documents as “artifacts of modern knowledge practices ... [that] becomes at once an ethnographic object, an analytical category, and a methodological orientation” (2006d:7). Canonically associated with Western style bureaucracy, documents as artefacts can be seen as “objects of knowledge” and carriers of meaning (Reckwitz 2002:202). The use of the word ‘artefact’ also evokes the image of museum pieces locked in glass boxes or framed on walls, or placed in the spaces of anthropological and archaeological departments, to be gazed at by academics, students and the public as prized exotic pieces. Yet documents are not the products of an exotic ‘Other’. They flourish within our bureaucratic lives and multiply in number on our desks and book shelves, in libraries, at meetings, seminars and conferences, and are used to record important information and relied upon to make ‘rational’ decisions. Anthropologists are also the subjects of documentary practice; trailing through archival collections, writing-up field notes, transcribing interviews and sketching genealogies (see Sanjek 1990). Working in any environment, documents can become living subjects as well as objects.

Further documents, as artefacts, are not neutral in how and why they are produced and in their different effects. Rather they are subject to a range of rationalities and are embedded in power/knowledge relations (Foucault 1980). Thus documents are able to order and shape practices (Riles 1998, 2006d, 2006c, Brenneis 1994, 2006, Harper

1998, Ferguson 1994, Craig & Porter 1997) and make organisations amenable to auditing (Power 1997, 2003a, 2003b, Strathern 1996/7, 2000a, 2006).

Documentary practices are also crucial to accountability. Through the collection of information and documentary evidence, people can be held to account for their decisions and actions. Yet, in producing documents, questions are asked of subjects, responses are stated and recorded, assumptions are made, analysis is undertaken and then produced in written form as a document. But the final artefactual character of the material product can hide these processes of creation and the power relations inscribed in its words. From this perspective the *Evaluation Report* is both a discursively constructed text and a set of meanings actors ascribe to Forum-Asia where both “disclosure and concealment” are simultaneously produced (Coutin & Yngvesson 2008:1). Here there is a double effect of subjection in the production of the report. Documents impose meaning in terms of how they are to be treated, read and responded to. In any report there is a central question of ordering, including aesthetic features and form, authority and agency, and the temporality of documents (Riles 2006d:18-22).

### *Aesthetic features and form*

Reports are a specific type of document with their own rules which govern style, structure, the production of information, and how they are to be read and responded to. Here I briefly describe the *Evaluation Report* of Forum-Asia which contains six parts: an Executive Summary; Introduction; Background; Programmes and Campaigns (split into two sections on Human Rights Promotion and Protection Programmes, and Campaigning for Human Rights); Networking; and Conclusion. The Executive Summary outlines the aim of the evaluation, which is to “examine how Forum-Asia as a regional organisation has performed according to the organisational objectives as set out in the three action plans since 1992”, the evaluation process and the content of the report. The Introduction details the objectives of the evaluation, the research methodology and background to undertaking the evaluation. The Background chapter also provides a context for the evaluation by detailing the history of the region, the birth of Forum-Asia, Forum-Asia’s vision and activities, its organisational structure and a history of Forum-Asia’s use of evaluations.

Having contextualised Forum-Asia and rationalised the need for the evaluation, chapter three, Programmes and Campaigns, evaluates Forum-Asia's activities. The first section is on human rights promotion and protection programmes, and identifies Forum-Asia's activities over the years by compiling graphs on its promotion and protection activities. This section also identifies whether the activities were national or regional and their focus on capacity building, joint actions and campaigns, publications, and the target of the activities (see Figure 17).

The report also evaluates Forum-Asia's programme development and strategy including the use of networks, partnerships, the media and high-level country missions. The section ends with an assessment of Forum-Asia's programme output and impact, programme limitations and constraints, and identifies a set of recommendations. The second section is on campaigning for human rights and evaluates Forum-Asia's campaign activities in the form of country campaigns such as in Burma and Indonesia, and thematic campaigns including migrant workers, minority groups and freedom of expression. The report then evaluates the progress of the campaign programmes and finishes with identifying the limitations and constraints of Forum-Asia's programmes and campaigns, and makes a set of recommendations.

The fourth chapter, Networking, focuses on Forum-Asia's activities and capacity building through organisational, educational and contact networking. The chapter evaluates how Forum-Asia's network operates including issues of member organisation participation and the capacity development of the network. The chapter ends by identifying the strengths and limitations of Forum-Asia's network and responding with a set of recommendations. The Conclusion chapter provides a synopsis of the report and findings, and an overall set of recommendations for Forum-Asia to consider concerning its programmes, networks and the administration of the Secretariat.

The organisation and progression of the report seems simple enough, makes sense and is easily understood. The report also seems no different to other reports. So what is its significance? The significance lies in the power/knowledge inherent in the report which privileges certain values and practices such as order, objectivity and transparency whilst concealing others such as spontaneity, uncertainty and flexibility. The former values are tied to the language of professionalising NGOs and instituting new managerial practices. I will explore these points shortly.



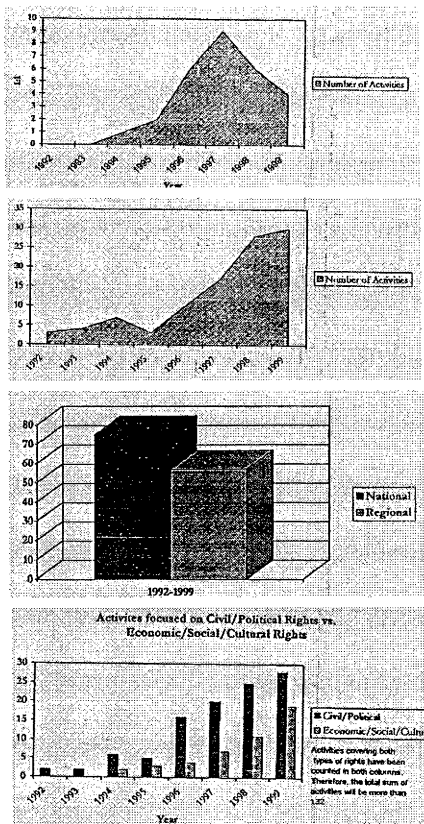


Figure 17: Forum-Asia's Activities

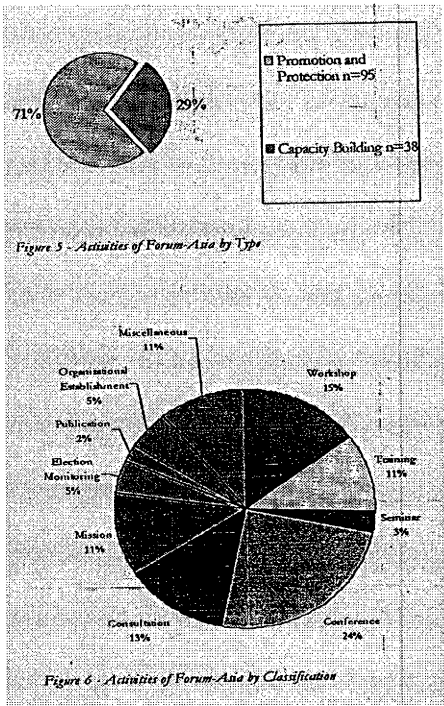


Figure 5: Activities of Forum-Asia by Type

Figure 6: Activities of Forum-Asia by Classification

The *Evaluation Report* is embedded within an audit culture concentrated on the values of transparency and accountability, efficiency and effectiveness (Strathern 2000b, 2000c). Strathern argues that this assumes that an organisation's performance can be observed, and in doing so, the visibility of the performance makes for transparency (2000c:313). Thus the task of the report is to make visible the population, practices and spaces of Forum-Asia by identifying its strengths and weaknesses and developing a set of recommendations to respond to these shortfalls to maximise both accountability and efficiency. In chapter three I argued that NGO project documents frame social practice as being ordered through the distillation and atomising of activities with clear inputs, outputs and outcomes. Similarly the *Evaluation Report* frames information by representing it as neutral, objective and complete, and imposes a project temporality and rationality to the organisation itself.

The report was written in English and was made available to all actors in the Secretariat, member organisations and donors. I first begin with a quote from the report:

On the 10<sup>th</sup> anniversary of Forum-Asia, we think that it is time to comprehensively look back and evaluate our past performance on the impact of our activities, our strength, and our weakness in order to meet a new challenge of the Millenium. (Somchai Homlaor, Secretary General, Forum-Asia, Evaluation Report 2001)

Pii Somchai's statement demonstrates how NGOs actively want to improve their performance by evaluating their success and limitations, as well as future challenges and issues. The evaluation was carried out by the Centre for Social Development Studies, Faculty of Political Science, Chulalongkorn University, Bangkok, Thailand in 2000. In exploring the documentary practice of the report I ask what is meant by the concept of evaluation. The focus of an evaluation is on "performance-oriented" practices (Wholey et al. 1986:15) and is considered integral to the efficient and effective management of an organisation (Broughton & Hampshire 1997). Evaluations assess "the relevance and fulfilment of objectives, developmental efficiency, effectiveness, impact and sustainability" (The DAC Expert Group on Aid Evaluation cited in Broughton and Hampshire 1997:21). Ultimately evaluations are tools used for accountability and transparency purposes and largely concentrate on short-term measurable performance indicators (Ebrahim 2003a, Craig & Porter 1997).

### *Order and coherence*

A central value of the report is producing an effect of order and coherence. These values are highlighted by the report's objectives:

- To assess the relevance and effectiveness of its programmes in meeting the objectives of the organisation by taking into account programmes conducted for strengthening the capacity of human rights activists and the campaigns conducted for strengthening the effects of local organisations.
- To assess the nature of planning and implementation of programmes (both education and campaign activities) by examining whether they were carried out with adequate planning or whether they were carried out in an ad hoc manner.
- To assess to what extent the programmes (education and campaigns) reflected the regional nature of the organisation and whether they strengthened local organisations instead of duplicating their efforts.
- To assess the role and effectiveness of the Secretariat in contributing to meeting the objectives of the organisation.
- To assess the expertise of the professional staff of the Secretariat including consultants presently engaged in planning and implementing programmes.

- To assess the extent of involvement of member organisations in all aspects of the organisation (policy, planning and implementation).
- To assess to what extent the organisation facilitated collaboration among members (nature and structure) and how it could be further strengthened.
- To assess the organisation's efforts in linking and working with regional and international organisations in achieving its organisational objectives. (CSDS 2001:4)

The report's objectives not only identify the areas for assessment, but also indicate that NGO practices can be made visible and transparent for evaluation. In this respect, evaluations also test how amenable NGO practices are to auditing and the performance assessment of performance indicators (Strathern 2000c:310). The objectives also reinforce the professionalising of NGOs by inscribing a developmentalist model of organisational practice. This includes a technocratic approach with measurable inputs, outputs and outcomes which are time-bound (see Edwards & Hulme 1996a, Escobar 1995, Kamat 2002, 2004). These set of objectives are situated within an audit culture which aims at disciplining NGOs to be efficient and effective in delivering services, implementing programmes, responding to new issues, adhering to mission statements, visions and goals and being sustainable. The use of bullet points to outline the report's objectives are used as "visual markers" to make explicit the individual impact of each statement and can be viewed as performance statements to create the conditions of trust in audit practice and the professionals who enact it. Strathern suggests that the use of bullet points is to make statements "crystal clear" which in turn suggests the resultant evaluation is itself open to transparency and audit practices (Strathern 2006:183, 188-189, Power 1994:47).

A significant ordering effect of the report is making Forum-Asia amenable to audit practices, paralleling the numerical language of accounting. This is achieved by atomising and segmenting practises into quantifiable and measurable inputs and outputs. Tied to this process is collapsing or compressing time and space (see Harvey 1989, Brenner 1999, Jessop 2000). This is highlighted in the chronological account given in chapter two 'Background of Forum-Asia'. In this chapter the regional background in the early 1990s is outlined including 'the birth of Forum-Asia', its vision, activities, organisational structure and its history of evaluations. My interest is in how such an account of Forum-Asia constructs and produces the knowledge it is aiming to evaluate.

The report dissects time into specific periods in relation to events. For example, the section ‘Overview of Forum-Asia programmes’ contextualises Forum-Asia within its geopolitical environment, which in 1991 was dominated by violence and oppression within the region (Forum-Asia 2001a:14). Forum-Asia’s activities are also categorised into three distinct phases. The first phase of development (1992-1994) focused on capacity building through regional and national programmes, including fact-finding and documentations. This was seen as particularly necessary as human rights groups saw a need for technical skills in documenting human rights violations. The second phase (1995-1998) is constructed as the ‘developmental phase’ in which Forum-Asia dramatically increased its programmes by extending its regional programmes to country programmes, as well as developing thematic campaigns, and regional and international linkages.

The third phase (1998-2000) of Forum-Asia is seen to focus on a balance between capacity building, and country and thematic campaigns, as well as increasing its programmes on economic, social and cultural rights with civil and political rights. This account of Forum-Asia over the past 10 years orders and structures practice in relation to time and space, and reinforces the perceived ability to order social practice. Contingent and sometimes spontaneous and untidy practices are marshalled within a linear progression of time. In doing so organisational practice is seen as space and time-bound so measurable inputs and outputs can be achieved.

Such atomising and disaggregating of organisational practice is evident throughout the report, particularly in examining Forum-Asia’s campaign work and programme activities in terms of outputs. For example, under ‘Programme Output’ in chapter three the report states that “Forum-Asia has emerged as one of the most active human rights organisations in the region, if judged from the point of activities”, which include workshops/seminars, training programmes, study sessions and conferences, country campaigns and election monitoring activities. It observes hundreds of NGO actors, journalists and students have learnt about human rights through study sessions, over one thousand people have participated in documentation and fact-finding training, and hundreds of international and regional election monitors have worked in 11 countries supporting free and fair elections (Forum-Asia 2001a:21). In quantifying Forum-Asia’s practices the report was also able to assess the limitations and respond with a set of recommendations.

In valorising order the report privileges structure and certainty. In chapter five, the Conclusion, the report states:

The existing programme package allows a lot of flexibility for the Secretary-General and the programme staff to be responsive to the socio-political environments based on their intuition. Yet, the flexibility causes a loose type of activity or lack of coordinated direction, programme incoordination, and a lot of unpredictable burden on the administrative staff. Flexibility is therefore simultaneously the strength *and* the weakness of the organisation. In order to prevent this type of activity, rational planning based on a regular analysis of the situation should be implemented. (CSDS 2001:52)

Even though the report recognises the importance of flexibility to Forum-Asia's human rights work, it ultimately prioritises order and coherence by stressing the need for Forum-Asia to engage in "rational planning". This practice would supposedly enable Forum-Asia to respond to the unpredictability of human rights situations in the region, whilst also being ordered, rational and directed. The use of the word 'rational' emphasises the value of order in organisational practice. Curiously can one undertake 'irrational' planning? Would it no longer be planning if it was 'irrational'?

### *Rational and objective*

The values and practices of being rational and objective are also promulgated throughout the report by using measurable and quantifiable data whilst also recommending the implementation of audit systems and project planning to reinforce these values.<sup>76</sup> I suggest that the emphasis on measurable and quantifiable data is at the expense of organisational processes which focus on project dimensions, or the aggregation of tasks that together transform activities and social practice. A focus on processes can potentially provide a more coherent and integrated approach to project analysis, even though this approach is less tangible and more difficult to measure and generalise. Process issues include the engagement of relevant people and stakeholders, relationships between stakeholders, and issues of social hierarchy and stratification affecting participation and engagement (Ebrahim 2003c:78-79). These processes also concern issues of capacity development, participation, decentralisation and empowerment.

The use of facts and figures also provides a definitive and assessable set of information, and begins the process of making visible the practices of Forum-Asia to make amenable to auditing. This is highlighted in chapter three, Programmes and Activities, where Forum-Asia’s activities are categorised, itemised and segmented. The first two diagrams provide line graphs of Forum-Asia’s promotion and protection activities by year; the third diagram categorises activities as being either regional or national; the fourth diagram separates activities as either civil and political rights, or economic, social and cultural rights; the fifth figure separates activities into promotion and protection, or capacity building; and the sixth figure classifies the different types of activities into percentages (see Figure 17). This information is then used to evaluate and assess Forum-Asia’s performance, strengths and weakness.

**Table 1: Assessment of Human Rights Activities by Forum-Asia (CSDS, 2007:54)**

Main Objectives	Effectiveness	Impact	Limitations
Human Rights Protection: Ad hoc campaign Country focus campaign	<ul style="list-style-type: none"><li>• Fast response to rights violation</li><li>• Organisation credibility as Asian</li></ul>	<ul style="list-style-type: none"><li>• Dynamics of human rights agenda in the region, e.g. Burma, East Timor</li><li>• Reconciliation in Cambodia</li><li>• Acceptance of the role of Asian human rights organisation</li></ul>	<ul style="list-style-type: none"><li>• Country coverage</li><li>• Not clearly reach to policy commitment</li><li>• ASEAN reluctant on human rights policy</li><li>• Issue of interference in national politics</li><li>• Dependent on national member organisations</li></ul>
Human Rights Promotion: Human Rights Education Institution and mechanism building	<ul style="list-style-type: none"><li>• Human rights education policy in some countries</li><li>• Active election monitoring network</li><li>• Set up of Asian Working Group on human rights mechanism</li><li>• Umbrella of new groups and organisations</li><li>• New agendas being raised</li></ul>	<ul style="list-style-type: none"><li>• Growth of human rights NGOs</li><li>• Better knowledge for the public on the violations of rights</li></ul>	<ul style="list-style-type: none"><li>• No message sent across the region</li><li>• Lack direction and priority</li><li>• No integrated plan of activities</li><li>• Lack strategic use of media</li><li>• No campaign tool</li><li>• No real progress in institution and legal mechanism</li></ul>
Human Rights Promotion: Capacity building	<ul style="list-style-type: none"><li>• Well planned</li><li>• Substantive</li><li>• Good publications</li><li>• Pools of resource persons</li><li>• Secure funding</li></ul>	<ul style="list-style-type: none"><li>• Good distribution of texts, publications</li><li>• Demonstration effect by further independent training</li><li>• Local use of skills</li><li>• Constant demand for the study session</li></ul>	<ul style="list-style-type: none"><li>• Weak socio-cultural approach</li><li>• Missing capacity building through networking</li><li>• Different degree of usefulness for different client-organisations</li></ul>
Networking	<ul style="list-style-type: none"><li>• Expanding network</li><li>• Opening to more collaborations</li><li>• Joint actions</li><li>• Policy advocacy</li><li>• Solidarity action</li></ul>	<ul style="list-style-type: none"><li>• Increasing member’s capacity in the newly democratised countries</li></ul>	<ul style="list-style-type: none"><li>• No job description for the networking</li><li>• Lack mutual communication</li><li>• Low participation</li><li>• Loose network identity</li></ul>

In chapter five, the Conclusion, the information and data examined in the previous chapters is compiled into a table entitled “Assessment of Human Rights Activities by Forum-Asia” (see Table 1: Assessment of Human Rights Activities by Forum-Asia).

The table provides an explicit evaluation of Forum-Asia that is represented as rational and objective and not open to interpretation. Here the multiple meanings ascribed to Forum-Asia come together in a singular form in the production of the *Evaluation Report* and is amenable to professionalisation.

The aesthetic form of the table quantifies, solidifies and renders ‘objective’ the evaluation process. It also assists the reader by identifying the important facts and information about Forum-Asia before presenting a rational set of recommendations in the text as follows:

#### *Programmes*

- Maintain strong focus, e.g., training activities, and advocacy role
  - Strategise human rights activities
1. Restructure programme package: protection, promotion, capacity building, information and knowledge base, networking
  2. Apply strategic planning: target and priority setting, implementation approaches, resources and evaluation
  3. Diversify alternative approaches to campaigns and capacity building, e.g., strengthening civil society, and changing civil society perceptions on human rights
  4. Information and research back up for substantive human rights activism
  5. Invent tools for campaigning, engage in human rights discourse: sending message via media creativity
  6. Keep track of activity impact by records keeping and annual survey of progress
  7. Implement human rights situation analysis to support strategic planning
- Plan for inclusive Asia.
  - Strengthen executive committee meetings as well as the general assembly

#### *Networking*

- Establish lateral communication mechanism
- Keep track of member human rights community
- Clarify relationship with associate organisations
- Identify strength of member organisations
- Provide job description for networking in the Secretariat office

#### *Administration of the Secretariat Office*

- Clear job descriptions for staff
- Implement regular management and feedback mechanisms
- Create multi-national Secretariat
- Explore cross-cultural organisational management
- Apply office technology to reduce workload
- Standardised management in regarding to staff evaluation, feedback, and staff recruitment (CSDS 2001:58-59)

These set of recommendations which are bullet-pointed and contain numbered sub-points represent a coherent and holistic approach to evaluating Forum-Asia, and attempt to embed new professional, administrative processes and audit practices. The approach

is also systematic and all-encompassing, suggesting the recommendations to be rational, collective and universalised objectives, even though their practice could be fragmented, ideologically based and irrational (Shore & Wright 1997:5). Both the set of recommendations and the assessment table are meant to be non-reductive, not open for interpretation, and with a singular meaning. Thus the meanings internal and external actors give to Forum-Asia and its practices are made invisible and concealed by the language of the evaluation report. In her analysis of university mission statements, Strathern suggests that such documents are “non-transformative” in that they are treated as information and data rather than an interpretation of sense-making and meaning (Strathern 2006:195). This idea of non-transformation is based on Riles’ analysis of the Platform for Action and the Beijing Declaration document which she sees produced through repetition and duplication of unconnected paragraphs. The document thus, in her view, elides multiple, contested authorship (Riles 1998).

This idea of a non-transformative document also applies to the *Evaluation Report*. Here the documentary practice of the report, constituted through social practice and subjective experience, is rather presented in objective and rational form, thus eliding the sociality of organisational life, with both shared symbols and contested meanings.<sup>77</sup> It is only through responses by Forum-Asia actors, member organisations and other actors that meanings are presumed to return to Forum-Asia and its activities. The split in 2005 between the Forum-Asia Foundation and Forum-Asia (see chapter five) illustrates the importance of meaning, complexity and unpredictability in understanding organisational change and practice.

### *Accountability and transparency*

Accountability and transparency are interlinked concepts yet have different meanings. Accountability refers to the processes and practices by which one is held accountable or responsible for one’s actions. Transparency is an aspect of accountability and refers to the processes in organisational practice and decision-making that are open and accessible to observation, participation, scrutiny and review. Issues of accountability and transparency include organisational management, financial management and information disclosure, project development, implementation and outcomes. Connected to both values and practices are issues of trust, performance and evaluation (Strathern 2000c, Ebrahim 2003a). Below I explore these issues in more detail.



Issues of accountability and transparency are addressed by the *Evaluation Report*, and indeed the report itself is an act of accountability. These values were specifically addressed in chapter four concerning Forum-Asia's networks (see Figure 18) (CSDS 2001:36-47). The report concentrates on ordering information about, and the participation of, member organisations by decision-making, planning and implementing activities. In assessing Forum-Asia's networks the chapter states that Forum-Asia's mandate is to be enacted "through the collaboration and cooperation among human rights organisations" (CSDS 2001:36), especially member organisations that are either membership-based, national-level or local-level grassroots organisations working on human rights (see Figure 19). Forum-Asia also works with affiliated organisations that grew out of special projects, such as the Asian Network for Free Elections (ANFREL) and Alternative ASEAN Network on Burma (ALTSEAN-Burma). However, the report alleges that relations and partnering with non-member organisations has not been clearly defined and there is a lack of clarity and transparency in terms of Forum-Asia's responsibility to member organisations (CSDS 2001:40-41).

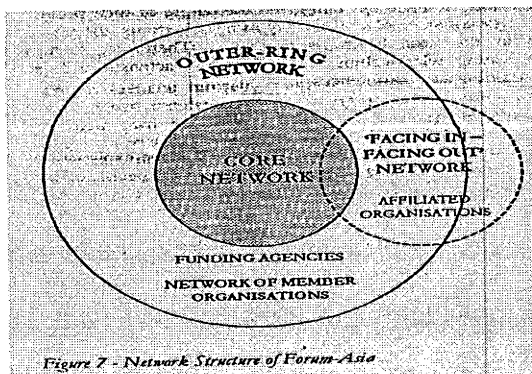


Figure 18: Forum-Asia's Networks

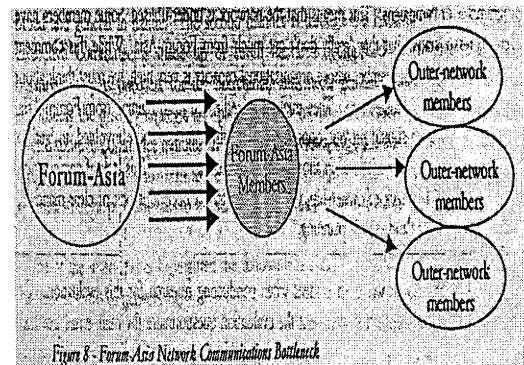


Figure 19: Information flows through Forum-Asia

The report also focuses on regulating the production of knowledge and its distribution within Forum-Asia's network, especially the need to record greater knowledge and details about member organisations and their methods of disseminating information. The report assessed communication exchange within the network to be vertical, whereby communication is diffused down from the Secretariat to member organisations, and with minimal exchange existing horizontally between member organisations. Additionally, information exchange had to pass through a bottleneck either coming from or through the Secretariat to member organisations and then to outer-network members (Forum-Asia 2001a:43-44). To respond to these shortfalls one of the report's

recommendations is management planning to increase transparency in decision-making, facilitate the coordinating and ordering of programmes and campaigns, and achieving greater outcomes for the network:

*Management/Planning*

- Consult the membership and make a clear decision on the membership process, membership criteria, number of members and geographical distribution of members, with a goal to increasing transparency and to avoid the possible politicisation of membership decisions.
- Undertake a comprehensive needs-assessment of member organizations in terms of networking, programming and the Secretariat.
- Engage in systematic strategic planning, monitoring and evaluation of the network and programming. Don't respond - strategise!
- Articulate clear goals for the network and ways of achieving those goals. (CSDS 2001:46)

These recommendations strengthen the professionalising of Forum-Asia whilst also making governable Forum-Asia's networks. For example, the report recommends a "serious, thorough needs assessment [of member organisations which] must be undertaken in order to identify needs and plan for effective, targeted service delivery" (CSDS 2001:41). This was reinforced by the third recommendation above and emphasised with "Don't respond – strategise!" Here the use of project development and management techniques are promoted to instil the values of accountability and transparency, whilst also increasing performance and effectiveness.

*Authorship and agency*

Riles suggests that "documents anticipate and enable certain actions by others – extensions, amplifications, and modifications of both content and form" (Riles 2006d:21). In the edited collection *Documents*, Riles writes that the authors are interested in the type of agency produced through the medium of document (2006d:21). In the case of the *Evaluation Report* authorship is generated by the name ascribed to the document and is endowed with authority and expertise, as the report is embedded within the language of good governance and professionalism, as framed by audit practices. Names are important to documents and endow them with authority (Biagioli 2006). Mario Biagioli suggests that names on scientific publications are constituted as documents with scientific agency through a "hinge between two apparently distinct moments of scientific production: the development and the publication of claims" (2006:127). Here the documentary practice of authorship is based on the physical

presence of the author's name on the publication (Biagioli 2006:129). Reports are similarly connected to the name of the author. The use of academics as consultants to undertake the reporting lends the report credibility as it invites suggestions of academic rigour, expert knowledge and independence. This is further reinforced by the name of the document, which in the context of reports, gives authority to its recommendations and, as Riles suggests, engenders agency and action (2006d:21).

However, there is more to the response than the implementation of audit cultures and professionalising practices. Strathern in her examination of the seeming inconsequential and non-eventful emergence of bullet points in Cambridge University's mission statement, explores this as a form of "bullet-proofing" (2006:181). The response by Cambridge University involves a double shot of both "deflecting" and "reflecting" audit bullets (Strathern 2006:184-188). Here agency involves both active and reactive practices and the *Evaluation Report* can be seen in a similar light. In commissioning the report, Forum-Asia anticipates issues of accountability and performance from donors. Further, in reflecting the aims of audit culture the report legitimates Forum-Asia in attempts to secure funding and authority in the spaces and sites of power in which it operates. The report also legitimates audit practices so that they have force and are capable of instilling an audit culture (Power 1997, 2003a).

In early 2004 a meeting was held with a donor organisation regarding Forum-Asia's audit practices and financial reporting. The meeting focused on an appraisal of Forum-Asia's opportunity and risk assessment, specifically the opportunity for co-operation, principal risks, management capacity and technical capacity, resource administration, political sensitivity, donor co-ordination and risk management costs. Ultimately the donor determined that there were minimal internal controls in financial planning, budgeting and reporting. Here the audit practices being developed and implemented by Pii Somchai when he was the Secretary General (see chapter one) were to deflect the concerns raised by the donor and respond with improved organisational performance as outlined in the appraisal as SMART: Specific, Measurable, Achievable and Time Bound in its project planning and reporting. After Forum-Asia completed the appraisal the donor responded to some of Forum-Asia's statements as being "Not SMART enough" with some "lacking in time, numbers, realistic, with whom?" (Donor evaluation, 2003). Here we can see how the audit system "defines its own boundaries, constituting everything beyond itself as its environment" (Strathern 2006:190). In drawing upon the

work of Niklas Luhmann's writings on auditing, Strathern suggests that the distinction and divide between an audit system and its environment is an act of determining what information is useful to internal-self auditing and what is unusable data which falls on the outside (2006:190).

From a reading of the donor's assessment one might think that Forum-Asia was neither smart nor effective in promoting human rights. I would suggest this view to be incorrect. The *Evaluation Report* comments on the achievements of Forum-Asia over the past ten years and the barriers it overcame to be a successful regional human rights NGO. Instead, I suggest the donor's assessment demonstrates the changing character of NGO practice. This evaluation privileges the ability and skill to produce documents and reports that have their own structure, form and requirements, usually written in English, as captured in the SMART analysis. Thus NGOs have to be able to atomise their programmes and campaigns, processes and practices, using project planning and development techniques to articulate future activities usually years in advance. In this instance Forum-Asia was having difficulty in performing these technocratic procedures, which under an audit culture, equals efficiency and effectiveness. Emma Mawdsley *et al.* recounts the comments made by an NGO worker in India who reflected on the 'past age', when they were able to meet with a Northern donor or partner NGO over a meal, outline an idea for a programme or campaign, and receive approval (2005:77-78). There is now an end to the informality of past practices of seeking funding. Now NGOs submit detailed project proposals in advance which are assessed to determine risk before funding is granted, which is usually conditional upon successful project outcomes and milestones being achieved.

### ***The temporality of documents***

The report is more than a description of the evaluation process and outcomes, and a legitimating ritual. The documentary practice also highlights the relationships between form, meaning and social practice (Brenneis 2006:43). Here the *Evaluation Report* brings to the forefront the rationality of organisational practice including order, objectivity, accountability and transparency. Further, by recognising only "documentary histories" (Brenneis 2006:58-64), the report promulgates the values and practice of administrative and professional techniques to elicit information which is represented as complete and total whilst in practice it is incomplete and partial. Michael Power argues

that the knowledge base of the audit process is fundamentally obscure (1997:30), which increases when auditing is transferred to social practice and proxies are used as indicators of accountability, performance and impact. The emphasis here is on the transference of skills, knowledge and techniques, or what Strathern refers to as “disembedded” or “free-floating” skills inherent in audit practice (1996/7:14). Richard Harper suggests that “[i]t is only by understanding this context that one will begin to tell the difference between the things that documents need to say and those that can be taken for granted; between the things that need to be documented and those that can be ignored” (1998:112).

Harper also suggests that reports operate as “talking texts” (1998:129). From this perspective the evaluation process enabled Forum-Asia actors to socially produce Forum-Asia and the meanings they ascribe to it. In putting this information together in an ordered and disciplined fashion in the form of a report, the documentary artefact is also used by actors to communicate with themselves in the future as it is in the future that the report’s recommendations will be used to implement change. Here “the present stretches to the past and the future” (Miyazaki 2006:206) by actors acting in the present, but reflecting and commenting on the past while looking forward into the future and thinking about the new course of action for Forum-Asia. This is highlighted by Pii Somchai’s observations in commissioning the report: “we think that it is time to comprehensively look back and evaluate our past performance ... in order to meet a new challenge of the Millenium” (Somchai Homlaor, Secretary General, Forum-Asia, Evaluation Report 2001).

The desire to bring order to change is part of the rationality of document making and audit practice. However, unexpected and unintended outcomes thus cannot be accounted for. In chapter five I explored the illusory nature of change as ordered, which rests on the assumption that organisations are stable and complete. Thus every attempt can be made for organised change to lead to a predetermined end, but implementing change is a process of constant interpretation and the negotiation of both order and disjuncture (Lewis & Mosse 2006). This raises questions about the temporality of transformation and the relationship between the past and future as constituted through present practices. Here there are teleological assumptions about how transformation is perceived under developmentalist frames. These assumptions negate the need of having to respond to

contingency and crises, which rather require different strategies that cannot be predetermined.

### **Accountability attacks!**

The sub-heading above is a take on the movie *Mars Attacks!* (1996), which is a parody of B-grade flying saucer movies using comic violence and exaggerated colour schemes. In the movie the President of the United States of America seeks to use the arrival of the Martians for political gain and it is assumed that the ‘advanced civilisation’ must be peace-loving. This is rejected by the Martians who wreak havoc with their fantastic death-ray guns that when fired only leave the skeletal remains of their victims. However, the earthlings discover a simple weapon, playing a yodel form of music *Indian Love Call*, which makes the Martians’ brains explode.<sup>78</sup> I do not wish to suggest that accountability practices operate to the same extreme as the Martians death ray guns or the earthlings’ yodels, yet I do argue that the aims of accountability regimes are concealed and masked by the premises of transparency and rationality. As Strathern and others argue, audit culture is about the pursuit of economic efficiency and surveillance under the guise of accountability, legitimacy and effectiveness (Strathern 2000a, see below). Further there are alternatives to accountability regimes, which have the potential to be simple and more beneficial.

Increasingly importance is given to accountability within organisations (Strathern 2000c, Ebrahim 2003a) (see the introduction for how I understand accountability). In this chapter I have situated the practices and values of accountability within an audit culture framework to bring into view technologies that internalise the exercise of power through self-regulation and discipline. My interest is in how the politics of auditing have been neutralised by being constituted through the “language of science” (Dreyfus & Rabinow 1982:196) and moralised by the values of accountability and transparency. I provide three critiques of accountability: the emphasis placed on audit culture through increased reporting; its short-term orientation rather than a focus on long-term social change; and its normative framework of legitimation, premised on the state being central to political decision-making.

In chapter one I explored Forum-Asia’s new administrative system, which was to simplify but increase the audit detail of the financial system and the training Forum-

Asia actors underwent on budgetary and financial management for projects. I argued that there was misalignment between the training of these new practices and how they would be enacted in daily practices of Forum-Asia actors as the new administrative system was concerned with complying with external laws and reporting requirements, the internal subjectification of accountability based on assessment and auditing of organisational systems and programmes as well as values, goals and mission statements (Ebrahim 2003b, 2003a, 2005, Unerman & O'Dwyer 2006). On the issue of writing donor reports, there was also a struggle between administrative staff compiling the reports and programme managers writing the reports and seeing it as NGO/human rights work. This entails the fetishising of paper in the form of project proposals, project documents, evaluations and other audit practices, which Power suggests are central to the production of legitimacy in auditing (2003a:380).

Today debates concerning NGO accountability are embedded in discourses about development, globalisation and governance (Jordan & Tuijl 2006:9). It has been adopted by NGOs as a strategy to respond to criticisms from donors, states and critics for not being open and transparent. Governance models presume Western political models including the rule of law, democratisation and political participation, as well as the principles of transparency, accountability and efficiency. But what is new, suggests Martin Minogue, “is the degree to which contemporary aid donors are speaking with one voice, and enunciating what begins to look like a strategy intended for universal application” (Minogue 2002:122). Martin Doornbos suggests that good governance acts as a general guiding principle for donor agencies to discipline recipient governments and organisations to adhere to “proper administrative processes” in the operation of development assistance. This is “to induce changes in the institutional environment of recipient countries” (Doornbos 2001:93). J.G. Townsend and A.R. Townsend suggest that the role of governance is to render NGOs more governable rather than improve the outcomes of projects (2004:1470).

Despite the depoliticising of social, economic and political issues through the technicalisation of development aid by focusing on the administration of public-policy under the framework of good governance (Doornbos 2001:95), Leftwich argues that good governance is deeply connected to forms of politics and to the structure and purpose of the state which operationalise it. It cannot escape politics nor the exercise of power, the structural causes of poverty nor bad governance (Leftwich 1994:363, Hout

2004:591). Further, by attaching the word ‘good’ to ‘governance’ it invites judgements on how spaces, places, organisations and projects are to be governed (Doornbos 2001:93-94). It is clearly prescriptive as much as descriptive, and these judgements concentrate on evaluating procedures, appraisal and reporting requirements, specified and measurable outputs, transparency and decision-making processes (Doornbos 1995, Edwards & Hulme 1996b:7).

### *Audit culture*

The basis of auditing is accountability and involves the “twinning” of moral reasoning and financial accounting which combine to form economic efficiency and best practice as twin foundations (Strathern 2000b:1). Audit practices connect auditing with legitimacy, surveillance and reporting with improving practices, and efficiency and productivity with effectiveness (see Strathern 2000a, 2000c, 2006, Shore & Wright 1999, 2000). Audit practice, and the resulting reporting and paper work, not only take place within the financial and accounting domain of NGOs, but has expanded so that NGOs have to analyse and measure performance inputs, outputs and outcomes. The migration of audit practises from financial accounting during the 1980s and 1990s into other professional domains saw new meanings and functions ascribed to it including ‘public inspection’, ‘submission to scrutiny’, ‘rendering visible’ and ‘measures of performance’. The internalising of an audit culture has also been promoted through governmental techniques which have been naturalised by the ‘science’ of the economic principles of management (Shore & Wright 2000:59).

Audit culture is connected to the new managerialism and the professionalising of NGOs (Shore & Wright 2000, Mawdsley et al. 2002, Townsend & Townsend 2004, Kothari 2005). The documentary practice of project planning and development, and administrative and management systems, as explored in chapter one, illustrates the institutionalising of audit practices. Audit practices are thus meshed within a power/knowledge discourse concerning political rationalities and techniques of discipline that form the basis of governmentalising NGOs. Professionals and experts who have authority to order social relations, such as in accounting, management and public administration, legitimate the discourse and practice of audit cultures. Audit practices also legitimate individual and organisational behaviour, rather than necessarily generate efficient and rational decision-making. Moreover, they are self-reproducing, in



that to generate trust in audit reports and statements, trust must be generated in audit practices themselves (Power 2003a:379-380).

Power suggests that significant to this process is the making of 'auditees' and their legitimating role in "making things auditable" (Power 1997:87). Strathern suggests that an audit culture has resulted in self-scrutiny and the emergence of the governable self (1996/7:8-10). The 'auditee' is not external to the organisation, but rather is internal, in this case in the form of NGO actors, researchers and donors. This idea resonates with Foucault's ideas about governmentality and shifts the external disciplining position of donors to the internal self-disciplining of NGO actors. Shore and Wright suggest that audit cultures rest upon two important aspects of regulation and discipline; the simultaneous imposition of external subjection and control from above, and the internal subjectification of new norms by individuals on the basis of self-improvement, what they call the "political technology of the self" (2000:61). Significantly a key aspect of this process has been the changing identities of how actors have been constructed and how they conceptualise themselves. This entails individualisation, productivity and performance being constantly measured in relation to previously established outcomes, as well as to be more effective and efficient in performing their tasks (Shore & Wright 2000:62). The role of the auditee is to internalise audit practices while also producing audit documents for external examination. Power suggests that this documentary practice or paperwork mediates audit practice "as an active process of erasing mess and of scripting a rational, defensible and legitimate 'face'" (Power 2003a:386). Thus actors are able to work the audit practice to their benefit albeit not in refusing to write reports, but being selective in the information they report or the represented success of projects.

In the context of the British higher education system, Strathern situates auditing within the context of visibility and the production of trust "as a particular example of the way in which the more general ethics of good practice get implemented" (2006:189). The emphasis here is on 'good practice' and in an earlier paper Strathern questions the suggestion made by scholars, such as Power (1997) and Shore and Wright (1999, 2000), that the audit is an instrument of surveillance and concerned with knowledge and control (Strathern 2000c:310). Instead, Strathern asks "*what does visibility conceal?*" (2000c:310) and explains further:

[P]art of the answer has to derive from what visibility itself is meant to convey. If the assumption is that much of what is invisible is what is simply *not yet made* visible, then there will always be more to learn about the organisation, further realities to uncover. (Strathern 2000c:312)

Here Strathern suggests that the value and practice of transparency rests on the premise that the performance of organisations can be observed and that publicity and visibility make for transparency through the operation of audit technologies.

In drawing upon Haridimos Tsoukas' paper *The Tyranny of Light*, Strathern argues that the increase in information can lead to a reduction of trust, as audit practices cannot "substitute for the kind of experiential and implicit knowledge crucial to expertise, and which involves the trust of the practitioners..." (Strathern 2000c:313). Substantially what is lost in this process are the complexities suffusing organisational practice (Strathern 2000c:314). In the context of Forum-Asia the rationality of audit culture obscures and conceals the complexity of how Forum-Asia practises human rights, the meanings actors ascribe to the organisation, and the knowledge and social productivity produced within its spaces. This cannot be easily captured and rendered observable by audit practices. In the previous chapters I explored the social production of Forum-Asia and the meanings Forum-Asia actors gave to their organisation. These contested meanings during the process of change within Forum-Asia ultimately led to a split between the Forum-Asia Foundation and the Secretariat, and were not anticipated by the audit practice of the commissioned *Evaluation Report* (see chapter five).

Similarities can be made between anthropological and technocratic knowledge production in terms of knowledge production, form and order (Riles 2000). I suggest that my doctoral thesis is also presented as ordered and complete, and as a story, produces a particular narrative about Forum-Asia, revealing some aspects, concealing others. Both myself as a PhD candidate, and my anthropological artefact, the doctoral thesis, are subjected to ordering effects. This extends from university policies, my academic discipline and the authority of my supervisor. Candidates are expected to follow prescribed timeframes determining the stages to complete PhD tasks. This has to be signed-off by supervisors, department heads and the delegated authority, which is annually reviewed and reported against. Similarly the thesis is ordered in terms of academic structure, style and content. However, there is a significant difference. I stress that my thesis offers a partial analysis (in both senses) of how Forum-Asia practises

human rights, rather than suggesting that my perspective and analysis is the sole authoritative text.

One could suggest that the privileging of documentary practices represents an excessive “responsiveness” to auditing (Strathern 2006:196). This is illustrated by a staff meeting convened by Anselmo in September 2005. These staff meetings were to occur once a month to discuss what staff are doing, as well as to coordinate campaigns and share ideas. During this meeting Anselmo outlined new management, planning and administrative processes, including manuals and a strategic action plan. The goal was to create a strategic link between the project proposal, which outlines Forum-Asia’s activities over a three year cycle, and the day-to-day activities, whilst increasing Forum-Asia’s accountability and transparency, and being more efficient in how it operates.

My interest here is in the reporting requirements of Forum-Asia staff. A new reporting regime was being implemented that concerned reporting on daily and weekly practices to develop a detailed and intimate knowledge of Forum-Asia’s practices. Anselmo spelled out that the daily reporting functions of the Secretariat would involve staff producing weekly activity plans and reports. The management team, would also produce weekly minutes and a weekly report for the Executive Committee, which would then consider these documents.<sup>79</sup> These documents would then be used to produce either a monthly or biweekly document to member and partner organisations.

Staff would also have to produce an activity report every 2-3 months, which would be the basis for writing the six monthly report and the annual report. The activity report contains seven areas: objectives; brief background and context of the programme; summary of main activities with a list of activities; outcome and achievements according to indicators; assessment; brief financial reports, and upcoming events or activities. Anselmo stressed that communicating Forum-Asia’s activities was as important as the activities themselves. It was also stressed that assessing activities in the report was important so that Forum-Asia could show donors that it had changed. The emphasis was on detailing and synthesising through a seamless process of inputs, outputs and outcomes through reporting on what Forum-Asia is to do, and what has been done and achieved.

As a regional NGO Forum-Asia staff frequently travel the region to undertake activities. Anselmo explained that country missions provide important opportunities to disseminate information about Forum-Asia to organisations, members and participants, as well as for Forum-Asia to obtain information from the missions. To facilitate this process Anselmo developed a guide for overseas missions, which included planning before approval, developing mission activity reports and writing mission briefs after returning. The emphasis was on producing detailed information about Forum-Asia's practices within an audit culture framework, which focuses on identifiable performance indicators. These audit reports are then used for accountability and transparency purposes. All of this would highlight that Forum-Asia now operates as a 'professional' NGO.

### *Short-term focus*

However, such an emphasis on quantifiable and measurable outputs within specific timeframes (daily, weekly, monthly and yearly) leads to a focus on short-term outcomes. Consequently there is the potential that long-term, social transformations are given less priority within funding cycles as they do not neatly fit into a SMART analysis. In the case of Forum-Asia some of its activities are focused on long-term change such as campaigning for countries to ratify the Rome Statute of the International Criminal Court and creating a regional human rights mechanism in the form of an ASEAN (Association of South East Asian Nations) Human Rights Commission. This is part of a broader goal to promote and protect human rights by making Asian governments more responsible and accountable towards their human rights obligations.

Demonstrating accountability is not thereby achieved by focusing on measurable outputs, which are usually in the form of workshops, training activities and advocacy pursuits. This is not to suggest that such activities are not important to developing a regional human rights mechanism, but rather highlights the difficulty in demonstrating the outcomes and impacts of such activities by an individual organisation. Roger Riddell suggests that short-term forms of accountability which rely upon measuring successful projects in terms of outputs, rewards NGOs focusing on discrete and time-specific activities, as these can be easily measured. In contrast NGOs shy away from new innovative approaches to responding to issues that might be more long-term focussed, process-oriented and risky (1998:225-226).

Evaluations and assessments can be framed in terms of three aspects of assessing organisational practice: the 'scope' of the evaluation, for example whether it be an individual project or whole organisation; the 'focus' which concentrates on what is being evaluated, such as short-term outputs, long-term results or processes used in carrying out activities; and the 'method' of undertaking evaluations (Tassie et al. 1998). Thus, depending on the purpose and form of the evaluation different perspectives on the effectiveness of the NGO or programme activities can be made. On this point Ian Smillie and John Hailey suggest in their examination of successful NGOs in South Asia, that it is not always clear whether evaluations are used for assessing performance and financial auditing or to influence and shape the future programme activities of the NGO (2001:84). For example, does the evaluation emphasise processes used by NGOs in carrying out their activities such as participation and empowerment or does it stress outputs in terms of what has been delivered and achieved.

Alan Fowler argues that performance assessments usually focus on individual projects or programmes whilst ignoring the overall organisation, including systems and ways of carrying out programmes (1996). Michael Edwards suggests that too often reports and assessments of NGOs seem to be collected and stored in cabinets or on library shelves (2002:333). This is particularly the case when there are resource constraints and the attention of NGO actors are focused on 'the doing', that is promoting human rights, rather than time consuming report writing and evaluation.

### ***Legitimation***

The key themes of NGO legitimacy discussed in the literature are accountability, representativeness and performance (Edwards 1999, Edwards & Hulme 1996a, Fowler 1997, Eade 1997, Hudson 2001, Attack 1999). Alan Hudson suggests that there is much confusion in the NGO sector on what constitutes legitimacy, which covers issues of "representation, transparency, accountability, compliance with legal frameworks, effectiveness and authority" (2001:332). Edwards suggests that NGOs' legitimacy depends on legal compliance, public support, receiving requests from the public for assistance, technical expertise, demonstrable representativeness, transparent performance, monitoring and accountability procedures (1999). Iain Attack suggests that NGO legitimacy is constituted by negotiating issues of representativeness, distinctive

values, effectiveness and empowerment (1999:858-862). Jennifer Chapman and Thomas Fisher also outline the specific ways NGOs exert legitimacy by pointing to practical experience on the ground, acting as experts promoting particular values recognised by society or international law, working with or obtaining support from other organisations, and gaining legitimacy by working with other respected or legitimate groups (Chapman & Fisher 2000:160).

A focus on legitimacy by human rights NGOs problematises the dominant model of representativeness as a key characteristic of legitimacy. Representativeness entails processes of participation in four ways: information about NGO activities being made available to the public for consultation; public involvement in NGO project activities; the subjects of NGO activities being actors able to negotiate or make decisions; NGOs not as the initiators of projects, but rather as actors initiating their own activities, such as social movements (Ebrahim 2003a:818). At issue here is the degree to which meaningful participation occurs, by whom, at what stage in the process of the activity and in what relations of power.

I suggest that in the case of human rights activities, representativeness can be an inadequate measure of accountability. Take for example the 'war on drugs' campaign in Thailand initiated by the Thaksin government on 1 February 2003. More than 2000 people were killed, with some extrajudicial killings being committed by security forces and drug dealers (Amnesty International 2003). Despite the fear engendered by this campaign many people supported the killings in the name of protecting children and the nation from the dangers of drugs and drug dealers. In contrast to this view, Forum-Asia and other NGOs and actors, publicly spoke out against the campaign and the consequent human rights abuses. In following the logic of legitimation as being inherent in representing popular public views, Forum-Asia and the other actors should have been responsive to the interests of the community and supported the war on drugs. This example suggests that notions of representativeness, framed in relation to representative democracy, are at times inadequate to assess NGO legitimacy.

I also suggest that discourses about NGO accountability and legitimacy are constructed, vis-à-vis the state, donors and subjects of NGO activities (see Edwards & Hulme 1996a, 1996c, Edwards 1999, Ebrahim 2003b, 2003a, Logister 2007, Attack 1999, Unerman & O'Dwyer 2006, Lister 2003). This framework is used to determine the legitimacy of

NGOs to act and operate within a variety of spaces, such as in community development programmes, as service delivery providers or human rights monitors, and in sites of power such as advocacy work in national parliaments, the World Bank or the United Nations. By comparing NGO representativeness with that of democratic states, this process naturalises the state as the true legitimate actor in politics. Take for example, Louis Logister's paper on NGO legitimacy in the context of global governance and civil society:

Nongovernmental organizations (NGOs) have taken roles that traditionally have been the sole province of states or intergovernmental institutions. NGOs are not bound to act in the public interest. Neither are their actions justified by formal democratic procedures, as is the case with states. Therefore, questioning the legitimacy of their actions is a crucial thing to do. (Logister 2007:165)

Logister's argument reinforces the pervasiveness of the test of democratic representative politics and elections being the highest form of accountability. Further, because the decisions and activities of many NGOs are not determined in this form, their legitimacy as actors should be questioned. My aim is not to question the relevance of NGO accountability, but rather to examine the effects of how NGO accountability is articulated and under what regimes of power/knowledge. The privileging of representative politics through elections means that NGOs can never be as legitimate as states. Consequently the state system of political participation and decision-making reigns supreme.

Scholars examining audit cultures, good governance and developmentalism are questioning the purpose and benefits of accountability regimes (see Ebrahim 2005, Townsend & Townsend 2004, Strathern 1996/7, 2000a, 2000c, 2006, Shore & Wright 1999, 2000, Power 1997, 2003a, 2003b, Jepson 2005) and it is within this context that I problematise accountability. The process of securing legitimacy or articulating alternative legitimacy principles does not occur in isolation by separate actors. Instead, legitimacy is conferred between multiple actors and constituted through these relations. Hence, the legitimating actions of one actor can only be examined *in relation to* the actions of others.

Rather than seeing legitimacy as something NGOs, or states for that matter, can objectively possess by measuring actions against a set of criteria, Hudson seeks to

“move away from a simplistic understanding” of legitimacy and instead suggests it can only be understood through the social relations which are regulated by it (2001:332). In defining legitimacy, Hudson draws upon Mark Suchman who conceptualises it as “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some social constructed system of norms, values, beliefs, and definitions” (1995:574). The significance of Suchman’s understanding for Hudson is that legitimacy is a socially constructed system which is “perspective dependent, relational and procedural...” (2001:342). This relational quality means that actors seek to justify their actions to other actors, and involves claiming the right to act on the basis of their relationships with other actors (Hudson 2001:342). From this perspective the social and spatial positioning of actors and their respective relations of power become important to their claims of legitimacy, whilst also being able to discredit the legitimacy of others. Rather than buying into an argument on whose legitimacy is greater, which can become a zero-sum game; I propose constructing an alternative framework for understanding and practising accountability, to which I now turn.

### **An alternative: accountability as learning**

In this section I provide an alternative framework for understanding and practising accountability. The framework moves away from an audit culture approach to one where accountability is conceptualised within a framework based upon experiential learning and reflexive practice. I suggest the dominant understandings of NGO accountability are concerned with improving NGO practices. However, this has largely occurred through auditing practises and the submission of financial and activity reports. In taking this position I suggest that the purported deficits in NGO accountability cannot be resolved by the current approach to and practices of accountability. In contrast a learning approach to NGO accountability, which builds on scholarly work concerning learning processes and organisational performance can address some of the crucial issues (Edwards 1997, Fowler 1997, Ebrahim 2005, Roper & Pettit 2002, Easterby-Smith et al. 2000, Britton 2005, Adams 2007). Ultimately scholars, practitioners, donors and others should let go of the false pretence of audit culture and its assumed ability to audit performance, trust and legitimacy. Instead actors should adopt an approach that is responsive to the diverse contexts and environments in which NGOs operate, whilst reflecting the unpredictability, variability and difficulty in the work that NGOs such as Forum-Asia undertake.



The literature on organisations and learning refers both to ‘the learning organisation’ and ‘organisational learning’. The first type of organisation is closely associated with Peter Senge’s *The Fifth Discipline: The Arts and Practice of the Learning Organisation* (1990), which explores how organisations successfully acquire, share and use knowledge to achieve organisational goals. In contrast the second type of organisation concentrates on systems and processes, and focuses on how organisations learn including management science, sociology, organisational performance, and psychological and behavioural aspects of learning (Roper & Pettit 2002:258-261). The concept of accountability as learning is situated within the context of ‘learning organisations’, and is concerned with NGOs reflecting on practices and processes through knowledge, feedback and evaluations to improve performance. Laura Roper and Jethro Pettit identify four key aspects of learning organisations:

- valuing different kinds of knowledge and learning styles and creating a ‘learning environment’ so that each organisational member can realise his/her full potential;
- encouraging dialogue and the exploration of different perspectives and experiences to generate creative thinking;
- working collectively and breaking down traditional barriers or blinkers within organisations so as to release creative potential;
- fostering leadership potential throughout the organisation and reducing distinctions, such as those between management and staff, between strategists and implementers, between support and professional staff, and so on. (Roper & Pettit 2002:259)

The journal *Development in Practice* special issue ‘Development and the Learning Organisation’ (2002) examines organisational learning within the NGO and development context. This framework is also connected to participatory action-research, action-learning, and participatory monitoring and evaluation (Roper & Pettit 2002:261). A focus on learning, which is continuous and never complete, highlights that knowledge is not objective, complete and fully coherent. Knowledge is also situated in systems of ongoing practises, is context-specific, continually reproduced and negotiated, dynamic and provisional (Gherardi and Nicolini cited in McFarlane, 2006:293). This perspective questions the assumptions articulated by some development literature that information and knowledge, is a technical instrument which is neutral and apolitical (McFarlane 2006:289, Zanotti 2005, Ebrahim 2002, Kothari 2005). This is based on the premise that

information and knowledge travel in a linear fashion and are not distorted, and second, that knowledge can be “applied to” local places with minimal considerations for variability and local differences (McFarlane 2006:289).

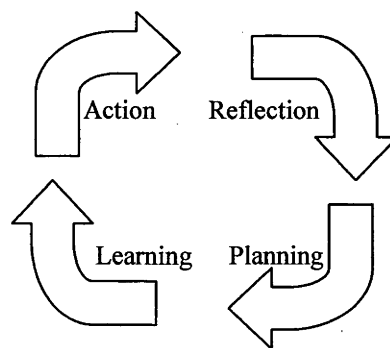
My aim here is not to provide a model to be used by NGOs, but rather to demonstrate how a learning framework addresses accountability issues. Learning can be seen as the basis for organisational change and shaping practice. However, the act of identifying gaps, problems or issues in organisational practice and expecting a set of recommendations to lead to change does not always ensue. Instead learning needs to be a continuous part of organisational practice. In focusing on organisational practice I suggest a conceptual framework of experiential learning which is appropriate and conducive to a new perspective of accountability within NGOs. Here I refer to the work of David Kolb and his four stage ‘Experiential Learning Cycle’ model of action, reflection, learning and planning (1984) (see Figure 21). Kolb’s learning cycle occurs through action or practice, whereby actors reflect on the practice and outcomes achieved. In the learning cycle, which can be at the organisation or the individual activity level, assumptions, processes and practises are questioned and challenged to explore new ways of improving practice. What has been learnt is then planned and put into further practice. This process is then repeated. Even though these stages are separated and neatly bound, I propose that they are interconnected and occur throughout the project, programme or cycle of the NGO. The emphasis is on learning through experience and then acting on that learning. Another way to consider the application of the Experiential Learning Cycle is as a set of stages carried out during the cycle of the project or organisation (see Figure 22).

The main model of organisational learning referred to in the literature is Chris Argyris’ and Donald Schön’s single and double-loop learning (Easterby-Smith et al. 2000:786, Ebrahim 2005:67). Single-loop learning focuses on following standard rules to address inefficiencies or dealing with first order problems (symptoms), to double-loop learning, which is seen as changing the rules where assumptions are tested, problems identified and strategies are questioned and rethought. In triple-loop learning the focus is on how organisations learn and reflect on learning about learning (Roper & Pettit 2002:259).

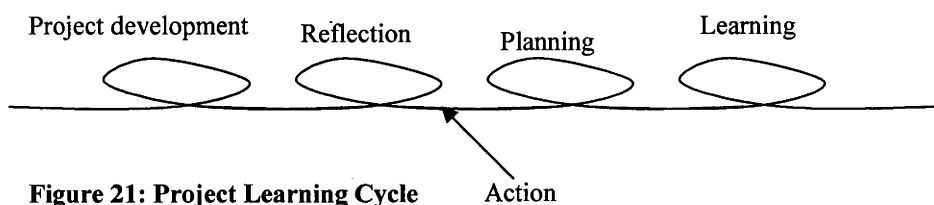
In creating links between learning and organisational change, Ebrahim stresses the need to pay explicit attention to how information generated from learning processes can and

will be fed into decision-making processes. Included in this relationship are relations of power and the ability for open, participatory practices that allow for learning to take place, particularly among multiple stakeholders and divergent groups which inhabit different social and spatial positions (2005:70-71). To do this learning needs to be integrated into organisational practice including the planning and development of programmes, learning practices and evaluations, and implementing change and reporting systems. This learning framework is particularly relevant to NGOs who are in positions where donors or others are focused on short-term outputs and audit practices, and where funding is constricted by short-term goals (Ebrahim 2005:73-74). Ebrahim identifies seven factors that will support learning:

1. Evaluation and other forms of learning should be seen as central to the work of the NGO rather than that of managers and experts;
2. NGOs, donors and other stakeholders need to support continual improvement and recognise the importance of learning from errors;
3. Organisational capabilities are built to respond to environmental instability;
4. Internal reporting structures maintain strong feedback loops between staff of all levels;
5. NGO actors are supported by resources, both time and training, to analyse programmes and be innovative in developing solutions and responses;
6. Information systems are simple and flexible, and the distance between information originators and users is minimised; and
7. Accountability processes involving stakeholders guide information and reporting systems.



**Figure 20: Kolb's Experiential Learning Cycle**

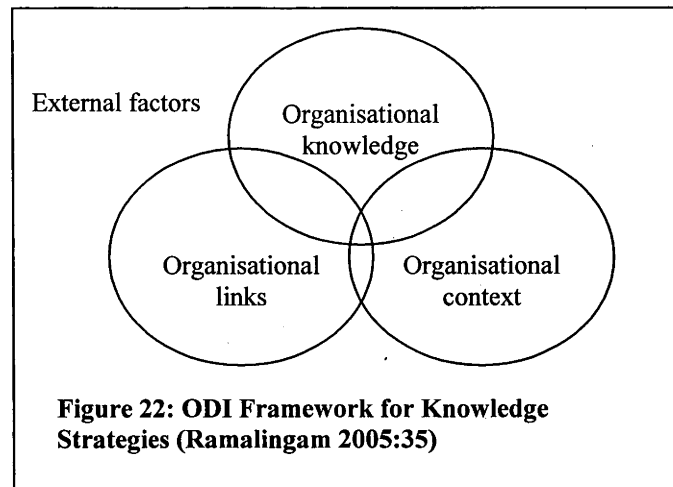


**Figure 21: Project Learning Cycle**

In outlining an accountability as learning framework I do not want to suggest that the needs, contexts, environments and even the types of NGOs are the same. Therefore the implementation of a learning framework and the knowledge needs of NGOs will always differ. In this respect the learning strategies of each NGO needs to be considered in developing and implementing a learning framework. The Overseas Development Institute, in a working paper by Ben Ramalingam, has explored the implementing of knowledge strategies within development NGOs and developed the following knowledge framework (see Figure 23):

- Organisational knowledge: How is knowledge and learning understood and applied within each organisation?
- Organisational links: How does knowledge and learning link to structures, functions, core activities and supporting activities [in] a given organisation?
- Organisational context: How do issues of institutional governance, politics and economics support or hinder the knowledge strategy?
- External factors: How does knowledge and learning work across the boundaries of the organisation, notably with beneficiaries, partners (Southern and Northern), donors and fieldworkers? (Ramalingam 2005:13)

This account is useful in determining the type of learning strategies an NGO should consider in developing an accountability as learning framework. The four aspects of the framework overlap to highlight their interdependence whilst also recognising that within each NGO they will differ in emphasis. For example, knowledge and links may be closely aligned whereas the organisational context may not be identified (Ramalingam 2005:35-36). These knowledge strategies aim to understand the meanings, values and practices NGO actors give to the organisation and more specifically to learning within the NGO and its activities. The emphasis here is on the context specific to the NGO in terms of how learning and knowledge is framed and operationalised.



### ***Constraints of a learning framework***

I stress that the learning organisation is an ideal because learning is difficult, continuous, not always complete, time-consuming and requires resources (human, financial and time). Further within NGOs these factors are always stretched and sometimes lacking, and structures and relations of power, which permeate organisational life, can influence how a learning organisation is practised. NGOs are also able to subvert the intention of the learning organisation framework by restricting participation, maintaining structures of power or not implementing change.

I suggest there are five main constraints to an accountability as learning framework. The first constraint concerns relations and structures of power internal and external to NGOs. Structural and power relations are influenced by the social and spatial positioning of actors, and informed by organisational hierarchy, ethnicity, religion, gender and age. Without addressing these power inequities the learning strategies will not allow for meaningful participation by NGO staff and other actors, and hinder learning opportunities (see Kelleher & the Gender at Work Collaborative 2002:313, Power et al. 2002, Padaki 2002). In chapter one and five I explored the different sites of power and spatial relations operating within Forum-Asia. In the case of the planning session in Kanchanaburi status, hierarchy, gender and ethnicity influenced who participated in the public discussions, and what influence their input received. Such aspects of social practice could also come into play in a learning framework practised

by Forum-Asia as certain actors would be perceived to hold more important and influential positions. Junior staff might also feel less able to fully participate.

Relations with donors can also influence the possibility for NGOs to develop learning frameworks. Currently NGO accountability practices, such as audit practices and report writing, are largely a response to donor demands. Thus, internal reporting structures, information systems and accountability processes need to be changed and supported by donors. Donors need to also change their onerous, costly and time consuming accountability requirements, as well as support the implementation of learning systems within the NGOs they fund (Ebrahim 2005:80).

The work of ActionAid demonstrates that donors can change their mindset in terms of reporting requirements whilst also being assured that partner organisations are accountable for the spending of monies. The orientation of ActionAid is on improving performance, whereby under ‘Alps’ (the accountability, learning and planning system) country offices are no longer required to submit annual reports. Instead they participate in “annual participatory reviews and reflections” which is a process of learning and sharing to improve the responsiveness and quality of work and involves the participation of stakeholders to express “ideas, priorities and concerns”. Importantly no report is required from this activity (ActionAid 2000:18). The reasoning behind the Alps model is as follows:

A growing concern voiced by staff and local partners in recent years has been the disproportionate amount of time and effort that is going into meeting ActionAid’s planning and reporting requirements. If it were only a question of wrong priorities, the problem could be easily rectified by reordering time allocation. The bigger risk is the spread of a culture of bureaucratisation and disempowerment of staff, partners and ultimately the poor people that we work with. (ActionAid 2000:iii)

In responding to donor demands Forum-Asia developed a new administrative system to increase the audit detail of its finances whilst also being more efficient in tracking budget expenditure. This system was costly and required administrative staff to administer and programme staff to internalise, which was generally not received well by staff. In adopting a learning framework Forum-Asia and its donors would need to adopt new practices and implement new processes.

The second constraint is NGO resources (human, financial and time). Forum-Asia was fortunate to have received the support and funding from donors to strengthen its capacity of staff and programmes through training and assessments. Yet in my observations many Forum-Asia actors seemed to have a large workload and there was often not enough time to complete reports and other administrative tasks whilst also *working* on human rights. The challenge in implementing a learning framework is to ensure that it is an operational process with resources, as the immediate priorities of planning and undertaking field trips, organising training events and workshops, implementing campaigns and responding to human rights crises will always usurp priority over other tasks that can be delayed. Another aspect of resources is having the necessary skills to implement and carry out learning activities. In the first instance this may require the support of consultants or educational ‘experts’. However, these skills need to be transferred to the NGO and the other actors involved to minimise power inequities and to support the capacity, transference of skills, and participation of diverse actors.

In my own work as a public servant my agency delivers programme services. As a team of educators we are keen on improving our programmes and delivery, and have implemented quality processes within our programmes, what I call ‘learning loops’. However, in recent times there has been great difficulty in following the learning cycles due to resource constraints, both human and time. This includes, over the past twelve months, key staff temporarily leaving the team, meaning a loss of corporate knowledge. In concentrating on delivering programmes there seems to be little time to reflect on our practices, identify strengths and weaknesses, and implement change.

A third constraint is ensuring that the learning framework is put into effect. This recognises the need to have a process or mechanism with authority to implement the learning process. Even though I argue that donor reports do not sufficiently reflect accountability nor adequately result in improving projects, the act of report writing, which is usually conditional as part of the funding process, does provide a mechanism to potentially explore and address the effectiveness of projects.

The fourth constraint relates to the dominant discourses about NGO accountability. Unless these are changed, a learning framework will not be valued and given priority. These include how accountability is conceptualised and implemented through audit

practices and the central positioning of the state in politics. I also recognise that the learning framework is based on values such as equitable relations of power within both internal and external organisational relationships. Therefore, they may not be easily transmitted to all places and organisational spaces. The politics of organisations means that multiple meanings are ascribed to organisational values, goals and activities, which are not always in unison and can result in conflict. Therefore any learning framework must respond to the particularities of the organisation and the specific contexts in which it is situated and operates. This includes recognising that learning is highly influenced by collective practice, but it also an individual act.

In recognising that accountability is more than responding to donor demands, the fifth constraint concerns ensuring that the actors involved in the learning framework include subjects of NGO programmes and other relevant actors. This is particularly important where NGOs purport to represent or act on behalf of certain groups, such as marginalised groups or specific communities. However, the ability to identify and include such actors is not always a straightforward process. For example, in the case of the ‘war on drugs’ campaign discussed above, who would be the relevant actors to engage with during the learning cycle of the campaign? That is the campaign took a human rights position in response to the government’s policy and did not claim to represent or act on behalf of particular groups, except in operating as a moral compass for society.

This chapter has critiqued the documentary practice of audit cultures which can be seen as a technique of governmentality, but which is represented as neutral and apolitical. Similarly learning frameworks have a potential to be an instrument to make governable NGOs. This can occur through the deployment of learning activities and the outcomes being used to focus on techniques of project development and promoting particular technical skills and knowledge production (see chapters one and seven). Here the learning and assessment process can legitimate and give authority to a new hegemony of accountability.



## Rethinking accountability

This chapter first examined the documentary practice in producing an *Evaluation Report* of Forum-Asia. My aim was to make visible the values of good governance and audit culture contained in the report, and how they promote the professionalising of NGOs and the adoption of managerialist practises. Here audit practices, administrative and management systems, and project development are implemented to demonstrate performance, accountability and efficiency. Arising from this analysis was the dissonant relationship between these values and Forum-Asia's ideals, values and behaviours of human rights, as revealed in its programme activities and campaigns. The emergent practice of human rights is now intimately tied to and influenced by, the workings of good governance and an audit culture. Thus, Forum-Asia's human rights work must now be captured in documentary form, wherein inputs, outputs, timeframes are articulated using a 'SMART' analysis and outcomes can be measured and assessed. Here audit practice privileges the values of order, objectivity and transparency whilst concealing others such as spontaneity, uncertainty and flexibility in organisational practice. These features of Forum-Asia have in terms of the *Evaluation Report* been a source of past strength, not just a weakness.

In critiquing an audit culture I argued that it operates to discipline and regulate organisational performance to promote economic efficiency and accountability. Significant to an audit culture is the act of self-scrutiny and the emergence of the governable subject. This shifts the external disciplining position of donors to the internal self-disciplining position of NGO actors (also see chapter one). Audit practices results in the production of copious amounts of information and results in excessive responsiveness by actors (Strathern 1996/7, 2000a, 2000c, 2006).

This chapter also challenged scholars, donors and NGOs to let go of the false pretence of audit culture and its assumed ability to evaluate performance, accountability, trust and legitimacy. Instead actors should adopt an approach that is responsive to the diverse contexts and environments in which NGOs operate, whilst reflecting the unpredictability, variability and difficulty in the work that NGOs such as Forum-Asia undertake. In doing so I outlined an alternative framework for understanding and practising accountability which shifts relations of power in terms of how NGOs are constituted, vis-à-vis donors and states, and instead concentrates on experiential

learning with the aim of improving practice. This framework recognises that knowledge is partial, socially, spatially and materially produced, and cannot be total, objective and complete. I suggest that scholars and practitioners of both NGOs and organisational learning should engage with NGOs, donors and other actors to develop alternative accounts of accountability which emphasise experiential learning and reflective practice. The work by Anoor Ebrahim (2002, 2003a, 2003b, 2005) and organisations such as the Overseas Development Institute provide significant entry points into developing models of accountability as learning. These models do not rely upon excessive and costly auditing, but rather deploy processes of engagement, reflective practice and learning that focuses on improving organisational performance. ActionAid is one example where the tide is turning on the assumed usefulness of audit cultures. Let us ensure that it is not the last.

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## Notes

<sup>76</sup> See chapter three for an analysis of project development techniques.

<sup>77</sup> See chapter seven for an analysis of how a legal framework conceals the subjective experience of human rights.

<sup>78</sup> I obtained this review/analysis from wikipedia: [http://en.wikipedia.org/wiki/Mars\\_Attacks!](http://en.wikipedia.org/wiki/Mars_Attacks!) Accessed 10 February 2008.

<sup>79</sup> The Executive Committee is a decision-making body, which meets between General Assemblies and is made up of member organisations and the Secretary General. Meetings can be called when necessary to handle matters and make decisions. See Introduction for a diagram of Forum-Asia's structure.

## Chapter 7

### Instrumentalising Human Rights through Law

[H]uman rights do not just constitute an affair of law; they also signify practices of resistance and struggle directed to *name* human rights and to put them to *work*. (Baxi 2005:183)

Human rights are usually seen to be constituted through international and domestic law, norms, principles and institutions.<sup>80</sup> Human rights operate as a regime of power, and entail a “legal culture” (Merry 2003a:71) that instrumentalises knowledge, and rationalises experiences of and responses to violence in legal form (Riles 2006a:54). The United Nations, which commonly represents the international human rights regime, also institutionalises and bureaucratises the legal disciplining of human rights. Riles refers to this process as the “iron cage of legal instrumentalism” (2006a:52). In response to this confining conceptual framework anthropologists are now treating critically the human rights regime as a subject of ethnographic research (Merry 2006a, Riles 2006a, Goodale 2006a, Goodale & Merry 2007). In his introduction to the “In Focus” Special Issue in *American Anthropologist*, Mark Goodale argues that such work “expresses a new key or register within which human rights can be studied, critiqued, and advanced through anthropological forms of knowledge...” (2006a:5). Importantly Goodale suggests that such work can simultaneously be critical of human rights regimes whilst also being “politically or ethically committed to these same regimes” (2006a:5).

It is within this body of work that this thesis explores the institutionalising of human rights and the types of spaces constituted and practices engaged in by Forum-Asia. I also examine how such practices exist in relation to Forum-Asia’s values and principles, as the institutionalising of human rights is one way in which professionalism is given form by Forum-Asia. This chapter is essentially a reflective piece as it developed after my return from ‘the field’, as well as thinking about my work with human rights organisations in Australia. As such this chapter does not attempt a ‘thick description’ of Forum-Asia. Instead I draw upon my experiences within the field of human rights NGOs and connect these to the scholarly literature on professionalising NGOs and institutionalising human rights. Thus my examination here is both in relation to Forum-Asia and the broader environment of NGOs operating in institutional spaces.

The chapter is structured in three parts. The first part explores the regime of professionalising NGOs and connects this to the constructed division between activism and advocacy. These terms are used by scholars, practitioners and actors to describe and give meaning to political practice, and to construct their identity. The second part outlines the institutionalising of human rights and its relationship to “legal instrumentalism” (Riles 2006a:52) in the practice of human rights. The third part examines the implications for human rights practices in terms of the constitution of political spaces and sites of power, and how Forum-Asia gives meaning to its values and principles, especially ‘democratic participation, transparency and accountability’.

### **Regime of Professionalising NGOs**

The literature concerning the professionalising of NGOs concentrates on the techniques of “ordering dissent” and constructing new subject positions (Kothari 2005, Laurie et al. 2005, Dolhinow 2005, Nightingale 2005, Townsend et al. 2004, Alvarez 1999, Tobar 2003, Martens 2005, 2006, Wilson 2006a). The professionalising of NGOs involves institutionalising processes, acquiring technical skills and legal knowledge (Hammami 1995:53-58), and is meshed within a range of power/knowledge rationalities that discipline organisational practices. For instance, audit cultures combines transparency with financial accountability as the basis to measure practices for efficiency and effectiveness (Strathern 2000b), whilst project development involves technical skills and auditing, project planning and professional staff.<sup>81</sup>

In a thought provoking Special Issue of *Antipode*<sup>82</sup> the authors explore the “Working the Spaces of Neoliberalism: Activism, Professionalisation and Incorporation”. The papers critically examine the use of experts and professional knowledge, the constraining and coopting of dissent, and how discourses and practises are appropriated to enact neoliberal projects in localised spaces. Rebecca Dolhino’s account of NGOs working in Mexican-American communities along the US-Mexico border, highlights how the “cycle of professionalism” and the “scaling-up” of political action to institutions can distance NGOs from progressive change and disempower the poor (2005:573). Similarly Andrea Nightingale demonstrates how community-based forest projects in Nepal communities, which involve state partnerships, are used to instil professional forestry practices including management plans, accounting and record keeping. These

practices reinscribe social stratification due to differences between actors based on education and literacy (2005:598-599).

On the issue of “ordering dissent” (Kothari 2005) Uma Kothari suggests that the professionalising of development NGOs has been to coopt dissenting and critical voices, and through the practice of participatory development, to perpetuate the neoliberal project (Kothari 2005:437-442). Marcela Tobar explores the professionalising of the Chilean feminist movement in the 1990s and argues the result has been that “the politics of confrontation have been transformed into the politics of negotiation, requiring intricate knowledge of policy-making processes” (2003:259). Like Tobar, Sangeeta Kamat contends that in India there has been a “shift in the organizational character of NGOs” and their work by adopting a technical and managerial solution approach to issues of poverty and oppression. This is in contrast to previous programmes focussing on empowerment which involved structural analyses of power and inequality. Again the presumed result of professionalising is the depoliticising of NGOs (2004:167-168).

The argument suggests that NGOs now implement state programmes and are not concerned with consciousness-raising and striving for political participation. NGOs are seen as having been coopted by the state by focusing on delivering government or donor-funded services instead of challenging dominant hegemonies and structural realities that create social inequality and injustice. Further, mobilisation is turned into advocacy that takes place behind closed doors in restricted institutions of power. Here the struggle for social changes shifts to a relationship based on cooption and cooperation.

Another aspect to professionalism discussed in the literature is the replacing of actors who have a history and experience in “political activism” or engagement in the organisation with professionals (Martens 2006:21). Kerstin Martens demonstrates how human rights NGOs engaging with the United Nations have shifted from using volunteers to technically-skilled professionals who might have had minimal previous experience with the organisation (2006:23). Similarly Markowitz and Tice examine how feminist organisations in Latin America increasingly recruit women who are university-educated and have skills such as grant writing so as to secure resources from funding

bodies. NGOs are also developing administrative capacities to respond to accountability and efficiency demands from external donors (Markowitz & Tice 2002:949-953).

I do not dispute these critical observations and assessments, but rather suggest that not all forms of professionalism result in less critical forms of engagement and struggle. This is particularly the case with human rights NGOs as their work directly confronts violators of human rights, which in many instances is the state or its agents. A constant theme of Forum-Asia's work is that the state and its agents do not have outright authority and legitimacy to use force, and that all acts of violence constitute violations of peoples' rights. These arguments are promulgated by human rights NGOs the world over and are not new, yet they can have profound effects. The moral authority of the language of human rights is used to promote peace, and help stop violence and the reign of impunity. In such work, human rights NGOs defy the rule and authority of states, which can result in acts of intimidation, violence, torture, imprisonment and death. Thus the struggle for human rights, whilst being constrained and constituted within the state system, challenges the authority and legitimacy of the state.

In chapter one I explored Forum-Asia's campaigns including its submission to the United Nations Panel on Threats, Challenges and Change. The submission was written by Forum-Asia, yet it also received input from other NGOs, academics and other actors in Bangkok, and drew upon reports and outcomes from a range of civil society forums. The aim of the submission was to reflect the interests and issues of civil society actors across Asia. Forum-Asia's submission covered human security, broadening the United Nations' decision-making processes, more equitable power relations between UN Security Council members, the immediate need for demilitarisation, developing internationally legally binding treaties on corporate accountability regarding human rights and the environment, and a universal jurisdiction not constrained by bilateral agreements. Even though Forum-Asia's submission was constrained by the United Nations Charter its content still challenged current international governance arrangements and state practices, by calling for universal jurisdiction of international law and questioning the increasing militarisation of states. The act of making the submission might not be seen as a 'direct confrontation' but it is surely part of Forum-Asia's ideological challenge concerning the value and promotion of 'human rights, democracy, development and peace'.<sup>83</sup>

I also recount a scene at a Forum-Asia training event on ‘Advocacy and a Human Rights Based Approach’ in 2004 which was held as part of Forum-Asia’s ‘Strengthening Internal Capacities through Organizational Management and Development’ programme which aimed to increase staff skills and capacity to undertake their work (Forum-Asia 2001b:51). The trainer is a senior figure from a well-known and respected European development organisation based in the Bangkok office. While discussing the recruitment of staff, the trainer recounted a story about a person who had all the necessary technical skills and experience and met the selection criteria for the position extremely well. Yet, when discussing the position, he explained that he saw his role as advocating the organisation’s position and that he did not have a personal position on the issues. In discussing his reasons and motivations for joining the organisation he explained that he did not personally “believe in” the organisation’s goals and objectives, but rather saw the position as an opportunity to use his “technical skills”. In response to these statements the organisation decided not to employ the person (Field notes, February 2004).

This story led to a discussion with Forum-Asia staff and the trainer raised the importance of NGO actors being personally committed to the cause, goals and objectives of the organisation. Two actors responded saying that NGOs should have people who are personally committed to human rights and the work of NGOs so staff could empathise with the victims of human rights violations and understand the issues that were at stake. Others agreed with these statements and reiterated the importance of their work being “victim-oriented” and reflecting the needs and interests of member organisations (Field notes, February 2004).

Sonia Alvarez also provides a nuanced account of the professionalising of large sectors of Latin American feminist movements during the 1980s and 1990s (1999). Alvarez argues this social and political shift was a “strategic response” to the triumph of electoral politics after decades of military rule with their former political opposition allies now forming government. Consequently feminist groups used their “research, lobbying and rights advocacy skills” to culturally and politically shape and transform government policy on gender (1999:182). Thus, Alvarez sees feminist NGOs’ “political hybridity” as playing an important role in “advancing a progressive gender policy agenda while simultaneously articulating vital political linkages among larger women’s movement and civil society constituencies” (1999:183). However, Alvarez also raises a

cautionary note concerning the ability of feminist NGOs to maintain their hybrid positions in response to three key developments: states and inter-governmental organisations (IGOs) constructing feminist NGOs as “gender experts” rather than as “citizens’ groups” advocating on behalf of women’s rights; states and IGOs viewing feminist NGOs as ‘surrogates’ for civil society; and feminist NGOs being subcontracted by states to deliver women’s programmes which are based on visible, short-term outcomes rather than long-term social change (1999:183). Similarly, Donna Murdock calls for a focus on a “practice” approach to the professionalising of NGOs, which emphasises actors’ own interpretations of their experience and the “dialogic construction of their social realities”. This position stresses that NGOs do not display fixed practices, strategies and meanings; but instead shift and transform over time (Murdock 2003:525). Murdock also argues that this perspective acknowledges that professionalism is not permanent and final, but rather is part of a process of constituting NGOs which can change (2003:526).

Therefore, in thinking about how professionalism is given form and meaning, I suggest that there are “spaces of resistance” within the professionalising regime, whereby NGOs are active subjects and not simply subjugated by the hegemonic forces of neo-liberalism (Townsend et al. 2004:872). I also suggest that professionalism’s effect of ordering dissent only reveals one part of the story as NGO agency involves both active and reactive practices. By adopting professional skills, knowledge and practices, Forum-Asia is active in deflecting (Strathern 2006:184) issues of accountability, legitimacy and performance from donors and others. Further, in reflecting (Strathern 2006:184) the aims of audit culture the professionalising of Forum-Asia provides legitimacy to assist in securing funding as well as authority in the spaces and sites of power in which it operates. The professionalising of Forum-Asia is moreover a response to the institutionalisation of human rights, which requires actors to have technical legal skills to operate within an international human rights legal framework and be constructed as authoritative professional actors. Contestation and accommodation are both types of agency and aspects of subjectivity or subject positions, rather than constituting a binary logic or a spectrum of political action along which actors are positioned. I borrow the idea of “subject positions” from Henrietta Moore (1994:49-50) who uses it to examine issues of identity in relation to resistance and complicity.



*When one becomes two: dividing political practice*

The language of professionalism is important to how it is given meaning and legitimacy. For example, the use of the new managerialism, audit cultures and project development to order organisational practice is illustrated by the pervasive use of performance outputs, aims and objectives, key performance indicators, accountability and transparency, and efficiency and effectiveness in the language and practices of NGOs. The shift is also illustrated by how organisational practice is described by using terms such as ‘activism’ and ‘advocacy’. Scholars and practitioners suggest these two forms of practice are different and refer to different types of organisations. Activism is linked to social movements that mobilise people, and participate in cultural and ideological struggles in the form of street protests, strikes, rallies and other forms of direct opposition (see Tarrow 1998, Petras & Veltmeyer 2005, Reed 2005, Alvarez et al. 1998). Advocacy is understood to include policy analysis, research and disseminating information, lobbying governments and other important power holders and operating in institutionalised sites of power (Hudson 2001:333, Van Tuijl 1999:499).

In exploring activism and advocacy, Iris Young acknowledges that the division between the two is artificial and that many actors and organisations embody both forms of practice (Young 2001:688). Yet she continues to reinscribe the difference by suggesting that activists “engage primarily in critical oppositional activity, rather than attempt to come to agreement with those who support or benefit from existing power structures” (2001:671). Activist activities include picketing, leafleting, guerrilla theatre, large and loud street demonstrations, sit-ins, boycotts and other forms of direct action. Activists do not disregard discussions altogether, although these are not with the state or corporate actors, but rather with activist organisations or other citizens (Young 2001:673,675). Young’s definition poses a problem for developing a nuanced approach to conceptualising political practice. Here her idea of ‘activists’ evokes stereotypes and reinscribes a state-centric view of power, whereby state actors exercise legitimate power while non-state actors are reactive and act in opposition to the state. But how is the state accommodated by non-state actors and how do they act *with* as well as *against* the state?

By contrast, advocacy as practised by NGOs is based on policy analysis, research and disseminating information, and lobbying governments, intergovernmental organisations

and other important power holders in institutionalised spaces (see Princen & Finger 1994, Ganie-Rochman 2002, Fox & Brown 1998a, Jordan & van Tuijl 2000, Nelson 1997). However, the prominent regional human rights actor, Raj Kumandar, stressed that NGOs need to engage with governments to utilise whatever spaces are created to advocate human rights. This is also important if NGOs want to advocate at the UN, so as to minimise harsh reactions from governments and to secure their influence in policy-making (Interview, December 2003).

In thinking about the relevance of these terms I ponder how they apply to Forum-Asia. Is Forum-Asia an activist-driven organisation or is its focus on advocacy? Also is there a clear and neat divide between the two approaches? During my time at Forum-Asia and when interviewing other NGO actors, I noticed a shift in the language and terminology used by NGO actors to describe their practises as well as themselves. I began thinking that there was a generational transition of NGO actors, which I labelled initially ‘from activists to advocates’. The older generation of activists emerged out of the 1970s struggle for democracy, which established many of the NGOs existing today. In contrast the younger generation working in NGOs, who are increasingly university-educated, are being transformed into ‘NGO professionals’ with technical skills and knowledge.<sup>84</sup>

Bruce Missingham describes these two groups as the “October generation” (referring to the democracy movement in the 1970s) and the “young Turks” (2003:100-108). However, in examining the language in the literature and that of Forum-Asia to describe political practice (see below), I suggest that in contrast to the scholars cited above, any idea of a clear division between activism and advocacy is actually blurred in practice. For example, in the literature the term “NGO activists” is used (see Keck & Sikkink 1998, Missingham 2003), while “transnational advocacy networks” embraces both NGOs and social movements (see Tarrow 1998, Khagram et al. 2002). In the often cited work by Margaret Keck and Kathryn Sikkink *Activists Beyond Borders: Advocacy Networks in International Politics* (1998) activism and advocacy are used interchangeably. This rather suggests that the terms have fluid meanings and do not reflect a defined set of practices.

In the case of Forum-Asia there is a perceptible shift in language used in reports, project proposals and strategic action plans over the period 1998 to 2005 to represent its activities.<sup>85</sup> My interest here is to demonstrate the subtle change in language, which I

suggest is in response to the professionalising of NGOs, rather than suggesting that Forum-Asia has changed its ideologies or direction. The four texts I examine are Forum-Asia's '*Three-Year Report 1998-2000*' (see Figure 24), the '*Project Proposal January 2001-December 2003*' (see Figure 25), the '*Project Proposal January 2004 – December 2006 (Final draft)*' (see Figure 26), and the '*Strategic Action Plans (SAP) July 2005 to June 2007 (2 Years)*'. In comparing the first two texts, we can see a change in the second text: Part II deploys professional language such as 'advocacy' and Part III is pervaded by the language of new managerialism. A new Part IV entitled "Assessment and Evaluation" suggests the emerging dominance of audit cultures and is concerned with efficiency and effectiveness in project development and achieving outcomes. This includes technical skills and auditing, project planning and professionally skilled staff and embedding administrative and accounting systems to assess performance against performance indicators (see chapter one).

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Figure 23: *Three-Year Report 1998-2000*

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Figure 24: *Project Proposal January 2001-December 2003*

The third text continues the routine adoption of the language of professionalism. Significantly there is a new section in Part III entitled "Enhancing Forum-Asia's capacity as a Professional Regional Human Rights Organization". Here Forum-Asia explicitly states it is a "professional" organisation. In the fourth text there is a new

programme activity entitled “Advocacy Programme” comprising the UN, human rights treaty bodies, and regional intergovernmental bodies. The Advocacy Programme became an organisational priority when Forum-Asia received UN consultative status in 2004. In the *Strategic Action Plans (2005-2007)* ‘advocacy’ refers to the United Nations, human rights treaty bodies and regional bodies, and involves intergovernmental meetings and institutions within the international human rights system.

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Figure 25: *Strategic Action Plans (SAP)*  
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Figure 26: *Project Proposal January 2004 – December 2006 (Final draft)*

However, the shift in language is never total and complete, as the terms ‘activism’ and ‘advocacy’ are still used interchangeably in some of the texts. For instance, in the 2005 ‘*Sixth Month Report to Donors*’ advocacy and lobbying are used together as an umbrella term for campaign activities, including press statements, open letters and public appeals, while lobbying refers to the lobbying of officials and governments. Yet there is still an ‘Advocacy Program’ which involves sending ‘missions’ to UN body meetings, a ‘lobby trip’ to discuss matters with government officials, workshops and

training on UN mechanisms, participating in regional and international civil society forums, as well as monitoring and documentation, and campaigning and networking with regional civil society movements.

In thinking about the use of the terms advocacy and activism, the question then is what makes activism, ‘activism’, and advocacy, ‘advocacy’? Why assume a street protest is more confrontational than lobbying an official along the ‘corridors of power’ or over dinner at an expensive restaurant with fine wine? Why is lobbying not a form of activism? In thinking about these issues I began suspecting that the terms ‘activism’ and ‘advocacy’ denote *values* applied to the types of strategies or practices for social and political change, rather than reflecting divergent or contrary practices. The shift in language and the self-labelling of NGOs also reflects not so much a shift in NGO activities, but rather the pervasive spread of the language of professionalism which carries authority and legitimacy. This is particularly the case with NGOs operating in institutional spaces such as the United Nations (see below). Yet I also recognise that these terms are not meaningless. To the contrary, activism and advocacy carry important symbolic weight regarding actors’ identities and how they publicly represent themselves. This is clearly reflected in the literature outlined above, especially for those actors critical of NGOs and the professionalising regime.

In contrast to this dominant model I suggest the division between the two is far from clear and is the result of a shift in the language used to conceptualise practices, which reproduces the state system as the legitimate abode of sites of power and political activity. Rather than trying to determine what activism and advocacy separately entail and how they differ, I suggest a more productive approach is to explore “the practises that tend to make NGOs more or less able to do certain things” (Murdock 2003:524).

### **The legalisation of human rights**

The production of human rights has been dominated by international human rights law and is constituted through discourse, treaties and legislation. The legislative regimes of human rights now dominates the study and practice of human rights (Meckled-García & Çali 2006, Evans 2005:1046-1047). I suggest the hegemony of the law permeates our understanding of human rights which extends beyond mere definitional questions of human rights and has implications for how human rights are articulated,

institutionalised and enforced (Kennedy 2002:102, Çali & Meckled-García 2006:1-3). In the edited collection *The Legalization of Human Rights* (Meckled-García & Çali 2006), the authors question the problematic relationship between law and human rights and the inherent difficulties in privileging the legal codification of rights. The distinction made between civil and political rights on the one hand, and social, economic and cultural rights on the other hand, or the generation of rights from first, to second and now third, illustrates the law's domination over our understanding of human rights.

The legalisation of human rights focuses on legal implementation, institutional development, and protection and monitoring. This is pursued through constituting and ratifying international treaties, and codifying them into domestic law and legal and constitutional reform. To enjoy these rights and to pursue redress, human rights campaigns focus on educating and training judges and lawyers and more generally educating citizens about their legal rights, entitlements and how to seek recourse. These activities are illustrated by Forum-Asia's human rights 'promotion' work as outlined in the introduction. David Kennedy argues that the legalising of human rights and establishing human rights institutions makes these forms an end in itself (2002:110).

### **Institutionalising human rights**

International human rights stem from international law, which is considered the primary concern of sovereign states. Yet since World War II international law has been expanded to include individuals, both as violators and rights holders in international law. International law can also be described as "a global legal order through conventions and treaties, monitoring and oversight, and social pressure" (Merry 2006a:100). As a legal order or system, international human rights are not only constituted through legal texts but also institutions and the actors that operate within them, in this instance the United Nations and its subsidiary organs, which was established in 1945 to replace the League of Nations, as stated in Article 1 "To maintain international peace and security" (United Nations 1945). To facilitate this goal an international and institutional human rights framework was established, comprising the Universal Declaration of Human Rights (1948) and other legal instruments (see endnote 2) (Smith 2003:26-37). This is also referred to as the human rights system which "represent[s] a transnational body of norms governing social justice and specifying the

rights and obligations of states to their members” (Merry 2006a:104, Steiner & Alston 2000).

To explore the institutionalising of human rights I adopt Riles’ position that an anthropological approach to human rights can respond to the instrumentalising of legal knowledge (2006a:54). This is based on the understanding that the law operates as a tool or instrument in the “legal knowledge practice” of human rights (Riles 2006a:59). This is because international law has increasingly developed in a technocratic direction which has been heavily influenced by the instrumentalist approach to law prevalent in the United States and especially the leadership role of the US in building international legal institutions (Riles 2006a:59).

The United Nations and its treaty system is extremely complex (see Bayefsky 2000, 2001). The six human rights treaty bodies comprise an expert committee to monitor the implementation of the treaty by member states, and involve member states periodically reporting on their success and limitations in implementing the treaty, usually every two to five years. The committee then considers the reports. Each treaty body has different reporting cycles, time-frames and procedures. The reporting and consideration of the reports takes place in public hearings in either Geneva or New York, depending on the location of the treaty body (Connors 2000:3-21). The system of reporting supposedly serves as an exercise for member states to become aware of areas which require improvements in national laws and practices, as well as providing the opportunity of an expert body to expose areas of non-compliance with treaty obligations (Theytaz-Bergman 2000:45). NGOs also use the treaties as sites to pressure governments to uphold human rights at the national level (Miller 2000:200).

The main body of the UN that human rights NGOs focus on is the Commission on Human Rights, which provides a central location for human rights groups to operate in the ‘international arena’. The sessions of the Committee brings together a vast array of human rights actors who campaign on human rights matters for the Commission to address and respond to. The 1980s and 1990s also saw the expansion of instruments focusing on human rights, particularly mechanisms and new conventions.<sup>86</sup> Up until 1984 the Commission considered the majority of individual countries in complex and confidential procedures, and NGOs were prevented from participating or learning about the cases being discussed. In response to these practices the Economic and Social

Council (ECOSOC) of the United Nations<sup>87</sup> passed Resolution 1235 which allowed for country specific mechanisms called Special Rapporteurs, Special Representatives or Independent Experts. In contrast to thematic mandates, which focus on individual cases such as extra-judicial, summary or arbitrary executions, and provide recommendations, country specific mechanisms assess the overall situation in a given country (Tate 2007:194).

Felice Gaer suggests there are three factors that led to the increased input of NGOs in the UN system. Firstly, individual treaty body members had a continued interest in receiving alternative and independent information to government reports. Secondly, this was supported by the “professionalization of human rights NGOs” to provide reliable data on the implementation of conventions by member states and increase their ability to analyse and review specific state laws in relation to international conventions. Third, there was also a growing support for international human rights in the 1980s being articulated by the USSR government and its allied states in Eastern Europe (Gaer 2003:343).

Since the 1970s, NGO participation at the Commission has increased dramatically. Kerstin Martens explains how originally NGO representation at the UN was predominantly conducted by volunteers (2005:96). However, over time NGOs were recognised as playing a significant role in the system of state reporting, by providing treaty bodies with documents and other information on human rights developments, especially progress and difficulties encountered in implementing treaties, as well as challenging state reports and information (Theytaz-Bergman 2000:46, Connors 2000:16, Brett 2000:57). For example, the Committee on Economic and Social Rights and the Committee on the Rights of the Child now set aside official meeting time for discussions with NGOs, whereas other Committees discuss issues with NGOs unofficially outside of Committee sessions (Gaer 2003:343). However, the ability for NGOs to participate in treaty bodies can be ad hoc with different rules applying to each treaty body.

Further, NGOs were seen by some UN actors as having expert opinions on specific matters and were a valuable resource in gaining advice and information, particularly if they were independent of member states, as well as in drafting resolutions and documents. Consequently NGOs transformed their representation from being volunteers



to professional actors, including establishing offices in major UN locations. These actors had experience in the relevant areas of the UN, were university-educated, increasingly at the post-graduate level, and had networks linking to UN and state officials and other NGOs. The prime candidates for these roles were former government or UN employees (Martens 2005:97, Tate 2007:175-214). The 1990s also saw a vast range of United Nations World Conferences on diverse topics including human rights, the environment and development, social summit, racism and on women. However, in response to the exclusion of many NGOs at World Conferences, parallel NGO forums were established to take place alongside the World Conferences and were open to civil society actors (Tate 2007:195).

Official representation to the UN and access to the Commission requires ECOSOC consultative status.<sup>88</sup> Martens describes how in the 1940s, when the consultative status was introduced, only 40 NGOs were accredited. This grew to 377 in the late 1960s and increased to 744 in the early 1990s. Originally only international NGOs were given consultative status, however, this was broadened to regional and national NGOs, which can receive 'general' or 'special' consultative status, or can be put on a roster and be limited to only attend meetings. By the mid-1990s the figure was 1226 but five years later the number had almost doubled and by mid-2005, 2614 NGOs had consultative status with the UN. The interest in consultative status was also in response to NGOs participating in UN World Conferences or parallel forums as they wanted to formalise their relations. Other NGOs became aware of the benefits of working within the UN system and so applied for accreditation. Additionally UN bodies and agencies were asked to provide lists of associated NGOs which then became automatically accredited with consultative status (Martens 2005:129-130).

Consultative status provides NGOs with an 'official status' and recognition, and is used for legitimacy purposes in both the work that they do and in helping to secure funding from donors. Even though much of the discussion and debates about human rights take place within the official spaces of sessions and committee meetings, unofficial spaces are also constituted to practise human rights such as the corridors of buildings where official meetings are held and the cafeterias (see Martens, 2005:chapter four, Tate, 2007:chapter five, Gaer, 2003). Tate also explains that the Internet was an important factor for the increase in NGO participation at the United Nations as UN documents and Commission meeting outcomes and decisions could be increasingly accessed online. By

contrast, previously actors had to travel to the Commission library in Geneva to study the documents (2005:196).<sup>89</sup> Yet official consultative status by an NGO is not the only means to participate in UN sessions and forums. Actors who do not have official status can register with organisations that do have consultative status, to access official spaces or they can meet officials outside of these spaces.

In response to the dramatic increase in participation in the UN system and the need for technical skills and knowledge, human rights actors are learning about the UN structure and how it operates, particularly the Commission of Human Rights and treaty bodies. This includes how to effectively advocate to the different organs of the UN, how to write and submit different types of reports such as shadow reports and reports in opposition. The production and distribution of this knowledge is achieved through human rights training sessions, seminars, manuals, books, pamphlets and reports. This can be seen in Forum-Asia's Capacity Building Programme, which includes holding an annual human rights training seminar for organisation members, lawyers, journalists and other actors working within the human rights field. In addition, in 2005 Anselmo Lee held an annual training seminar on human rights for Forum-Asia staff that covered the core human rights instruments, such as the United Nations Declaration of Human Rights and the Vienna Declaration and Programme of Action. The goal of the seminar was for all staff to have a common understanding of the human rights instruments and discourses to engage with the international human rights movement, the UN, and to coordinate campaigns and strategies among Forum-Asia, member organisations and other human rights NGOs (field notes, August 2005). Yet this 'common understanding' negates the particular ways in how legal texts are given form and meaning within specific sites and contexts. Here international legal texts have the potential to conceal and mask local understandings of specific rights, such as women and labour rights, as well as the conceptualisation of political, social, economic and cultural rights.

### **Implications for practising human rights**

Scholars suggest that human rights should be understood as a discursive formation, whereby human rights have been constructed as a coherent entity (Dembour 1996). Yet human rights also traverse a diverse and shifting range of meanings, practices, institutions and actors (Wilson 1997b, Cowan et al. 2001). Human rights actors include victims of human rights violations, government representatives, intergovernmental body

officials, NGOs, academics and other actors. Together these actors, including Forum-Asia, operate in the imagined ‘international arena’ of the UN system. Thus the United Nations system can be seen as a set of multiple sites of power located within specific geographic locales where actors contest understandings of and meanings given to human rights. From this perspective the international arena is experienced, represented and symbolised as a structural reality. This construction is given form and meaning not only through the international human rights system but also as a “process of identity construction” (Cunningham 1999:584), which constructs the practice of human rights as ‘international’.

Kirsten Hastrup suggests that the authority of international law rests heavily on “*form*” (2003:319). In anticipating the human rights system, legal and bureaucratic actors instrumentalise accounts of violence to meet the requirements of legal form (Wilson 2003b:268). Accordingly acts of violence are produced into cases and “facts” are documented to illustrate human rights violations with a specific focus on dates, time lines, places and responsibility (Tate 2007:118). This can be seen in Forum-Asia conducting fact-finding missions and educating human rights actors on how to conduct such missions. Here the focus is on a legal interpretation of what constitutes evidence. A legal form regulates the mechanisms by which redress can occur, human rights violators can be punished and justice be done. For instance, the practice of human rights in criminal trials or reconciliation and truth commissions differ in terms of their aims and desired outcomes, how victims and perpetrators experience the process and outcomes, and how evidence is documented and presented (see Wilson 2001, 2003a).

Legalising human rights and the documentary and bureaucratic practice that follows retroactively produces acts of human rights violations as *real* events or as *true* knowledge (Yngvesson & Coutin 2006, Coutin & Yngvesson 2008). Here there is a recursivity in this logic—the legal or bureaucratic document refers to the human rights violation, which was the basis for producing the document. This is a self-referential act.<sup>90</sup> The temporality of the documentary practice brings into critical view how once a legal decision is made and documented, the event is thereby determined to have occurred and in the form as outlined in the ruling, decision or finding. Here the legal decision relies on a specialised type of rationality or legal reasoning which, like scientific knowledge, claims to result in neutral and objective determinations (Otto 1999). Further, the subject positions and identities of subjects involved are retroactively

interpreted and authorised by this process in terms of how they are constructed and produced from the legal process (see Conley 2008, Yngvesson & Coutin 2008).

With the institutionalising of human rights there is a detachment and distance between the subject of human rights as well as instances of human rights violations, and the spaces where violence is experienced and human rights are constituted and produced. To gain access to human rights institutions victims are turned into ‘parties’ that must submit a communication; perpetrators are generally labelled as ‘state agents’ to be held accountable; and NGOs require consultative status to gain access to meetings. Here form and procedure matter. Each human rights institution – whether it is a body, committee, council, working group or commission – has its own rules, procedures, mechanisms and membership which must be understood by actors to raise human rights concerns and seek redress (Oberleitner 2007:14). It is usually the most marginalised and vulnerable that have the least access to human rights institutions and decision-making.

Upendra Baxi contends that to focus upon the legal production of human rights raises questions concerning the “authorship and authority” of human rights (2005:184). Consequently violence as a human experience is expressed and materialised in various forms, yet within a legal framework, violence becomes a problem of definition (Hastrup 2003:309). A privileging of law, as is produced in a rights framework, requires the subject’s position of ‘victim’ to be coherent, stable and consistent over time, instead of recognising subject identities as fluid, disjunctive and permeable (Conley 2008:29). Here there is the production of responsible subjects and authors of human rights violations. In pointing to agents of human rights abuses delineates boundaries drawn between the guilty and innocent, good and evil, and victim and perpetrator (Malmvig 2001:259-260).

Riles makes a similar point in her work with Pacific women at the UN Fourth World Conference on Women in Beijing in 1995, where it was “procedurally difficult to define the experience of colonization as a women’s human rights issue” (2006a:59). For the UN, colonisation is a political issue and not a technical legal issue requiring definition like ‘violence’ (Riles 2006a:59). Jan Klabbers argues that the institutionalising of human rights constricts the multiple values, ideas and meanings of human rights into the confines of international law (2002:5-6). For example, critical perspectives on gender are lost as they are inserted into legal documents as words (Riles 2000, 2006b).

To understand distinctive forms of violence, and violations of human rights, they need to be historically, politically, socially and culturally contextualised in terms of how violence is practised and given meaning and legitimacy (Ellis 2004:108, Blok 2000:24-26). In chapter three I argued that the experience of violence in everyday life provides a set of frames which give meaning to and represent particular forms and responses to violence. In a similar vein Jitpiromsri Srisompob and Sobhonvasu Panyasak critically examine the violence in Southern Thailand and question socioeconomic explanations for it given by state officials and some Thai academics. These were outlined in Thailand's National Reconciliation Commission's report of 2006 (this was established in 2005 to develop recommendations to overcome the violence in Southern Thailand). Jitpiromsri and Sobhonvasu suggest these explanations inadequately explain the dramatic escalation of violence since January 2004 (Jitpiromsri & Sobhonvasu 2006). They point to survey data which rather suggests that people are attributing the violence to militants and extremists in the pursuit of separatist movements partly on the basis of the forms of violence practised (Jitpiromsri & Sobhonvasu 2006:95,114). In this case the dominant narrative of socio-economic causes cannot be sufficient to explain acts of violence, which rather conceal multiple meanings.

Actors operating in the spaces of the UN system require intensive human resources (Clapham 2000:187). This limits and restricts broader democratic participation. In doing so the regime of professionalism disciplines "who can speak, from what points of view, with what authority, and according to what criteria of expertise..." (Escobar 1997:87). This has the effect of legitimating certain actors and practices and de-legitimizing others, and embedding them in hierarchical relations of power, knowledge and authority.

Actors are rather constituted as 'professionals' and 'experts' who have the necessary skills and knowledge to engage in the legal production of human rights. What becomes apparent is the 'subjectification' by actors according to the discourses, techniques, knowledge and practices of the international human rights system, in attaining the legitimacy and authority to speak and act. Martens demonstrates how this change, along with the opening up of criteria, has seen a dramatic increase in the number of NGOs seeking consultative status with the Economic and Social Council of the United Nations (Martens 2005, 2006). It again reinscribes the state system as the site of politics which

produces and legitimates human rights (Cassese 1990:13). Under the state system non-state actors are admitted but still limited in their ability to implement and monitor the progress of member states in enacting treaties (Brett 2000, Connors 2000, Clapham 2000, Miller 2000, Gaer 2003, Theytaz-Bergman 2000).

The institutionalising of human rights through the UN system legitimates and reproduces the state system at the expense of broader publics and more open participatory spaces. However, non-state actors are using the language of 'global governance' to criticise the UN system for being restrictive, unaccountable and non-transparent, and limited to a hierarchy of states. Instead such actors argue that international politics, and in particular human rights, involve a linkage and relationship between actors and issues across multiple levels of governance (Wapner 1997). Here the term 'global' is a "causal category rather than a spatial one" (Paterson et al. 2003:4). Thus the push has been to reform the UN system (structures and decision-making procedures) and policy content (O'Brien et al. 2000:2), but not the state system itself. In participating in and legitimating the UN system, Forum-Asia and other actors assist in naturalising the "necessity and inevitability of centralised, hierarchical institutional structures of authority..." (Baker 2002:938). However, this is only one part of the equation (see below).

Operating in institutional sites of power like the UN system does not automatically entail quiet forms of negotiation. In chapter three I explored how Forum-Asia, along with other actors, resisted and contested state violence in responding to the disappearance of a human rights lawyer Khun Somchai. The campaign involved publicising human rights violations and exerting pressure on the Thai government to uphold international human rights as contained in treaties and investigate Khun Somchai's disappearance. The institutional sites of power where Forum-Asia campaigned included the National Assembly and the United Nations Commission of Human Rights. In doing so, Forum-Asia publicly condemned the Thaksin government over the case and pushed for other actors, including foreign governments to do the same. Forum-Asia has also publicly taken up campaigns on contentious issues such as Aceh, Burmese refugees in Thailand and national security laws in Asian countries post September, 2001. Despite its increased efforts to operate in institutional sites of power, Forum-Asia has maintained its tough position on publicly campaigning for human rights

and working with other high profile human rights NGOs in the region to strengthen its ‘voice’ against human rights violations.

As noted earlier, critics of the professionalising of NGOs have argued that the effect has been to “order dissent” (Kothari 2005), a shift from confrontation to negotiation (Tobar 2003), to adopting a technical and managerial approach instead of focusing on the structural, economic and political aspects of oppression, marginalisation and violence (Kamat 2004). Further NGOs, it is claimed, are no longer focusing on mobilisation, consciousness-raising and empowerment, but are instead operating as state proxies by providing services or acting as technical experts (Alvarez 1999:197-199). James Ferguson calls this the “anti-politics machine” of development (1994). Yet how do these claims stack up against Forum-Asia’s promulgated values and principles?

As argued throughout this thesis, Forum-Asia operates within several sites of power and spaces to promote and protect human rights. In doing so Forum-Asia recognises that the primary participants are states and that even when NGOs do participate, such as in some intergovernmental meetings and UN treaty body sessions, they are usually restricted. For example, Forum-Asia, along with the Conference of Non-Governmental Organizations in Consultative Relationship with the United Nations (CONGO), is leading the development of the Asian Civil Society Forum (ACSF). The ACSF creates new regional spaces and sites of power for civil society actors to contest the legitimacy and authority of the state system. The aim of the ACSF is to “amplify Asian people’s voices in the global deliberation process” (CONGO n.d.).

Forum-Asia is also leading the development of sub-regional forums such as the ASEAN People’s Assembly, which provides a space for NGOs in Southeast Asia to identify priority issues and campaign on them at ASEAN meetings. Forum-Asia is also working to strengthen the existing South Asian People’s Assembly, along with developing other sub-regional public forums such as that in Northeast Asia (field notes December 2003 and August 2005). Through Forum-Asia’s programmes, new human rights NGOs have emerged such as Asian Network for Free Elections (ANFREL) which supports and promotes democracy at national and regional levels in Asia, and was the region’s first network focused on election monitoring. There is also the Alternative ASEAN Network on Burma (ALTSEAN Burma) which is a network of organisations and individuals that support human rights and democracy in Burma. Some of Forum-Asia’s programmes

have catalysed other NGOs, which together are well known for taking strong and contentious positions on human rights matters and are public in pushing for social and political change.<sup>91</sup>

Public forums provide counter spaces for actors to articulate policies and practices, and allow the potential for diverse actors to contest dominant ideologies and the naturalised sovereignty of the state system. An example of these public spaces is the *Asia Consultation on Vienna +10: 10 years after the 1993 Vienna Conference on Human Rights*, which Forum-Asia co-organised with other significant human rights NGOs. This was held at the United Nations Economic and Social Commission for Asia and the Pacific in Bangkok in December 2003. The aim of the forum was to place the Vienna Declaration and Programme of Action back on the agenda of the international community, including the United Nations. This is because many human rights NGOs contend that states are attempting to erode the achievements made at the World Conference on Human Rights, and civil society organisations are being marginalised and silenced by some states by restricting their participation in the UN system and in monitoring states' human rights (Forum-Asia & CONGO 2003:3-4). The basis of the forum was for NGOs across Asia to discuss the following issues:

1. Bangkok Declaration (1993)
2. The progress of HUMAN RIGHTS in the region five years after Vienna Plus Five (1998)
3. States performance in meeting their obligations under VDPA
4. Progress of the annual Regional Meeting for the Promotion of Human Rights in Asia and the Pacific sponsored by the Office of the High Commissioner for Human Rights (OHCHR)
5. United Nations system in assuming a more active role in the promotion and protection of human rights as recommended by the VDPA
6. Civil society's strategic [response] to the increasing threats on universal human rights agenda in the current international politic (Forum-Asia & CONGO 2003:6)

An important aspect of the forum was not only the sharing and disseminating of information and the affirmation of the VDPA, but also the outcome from the forum, a document produced by the participants outlining the key challenges to Vienna +10, the way forward, and general guidelines for action. Civil society actors use outcomes from civil society conferences, world conferences and intergovernmental meetings to campaign and promote human rights. These documents have normative force in that they represent a diverse and large group of actors, as well as give legitimacy to the



issues and discourses promulgated in the outcomes. They also build on previous human rights texts by restating the importance and commitment to their key themes and outcomes. For example, the language dominating the human rights NGO regime is the “universality, indivisibility and interdependence of all human rights”, “emphasising the interrelatedness of human rights, democracy and development” as contained in the *Vienna Declaration and Programme of Action* (1993). These phrases now dominate the language of human rights in other forums, including Forum-Asia’s Vienna +10.

In her analysis of the Platform for Action and the Beijing Declaration, Riles illustrates how such documents are produced through repetition and duplication of unconnected paragraphs, which ultimately leads to a loss of meaning and authorship (1998, 2000). This would suggest that legal texts are meant to be non-reductive, that is they are objective, not open for interpretation, and have a singular meaning. I agree that this is an instrumental effect of the documentary practice of legal texts and reflects how the law is *meant* to operate. I also suggest that the human rights documents produced in civil society forums mirror in form and production that of such legal texts. In doing so the social practice, human relations and subjective experiences in producing the document are concealed.

The content of the text is seemingly objective and rational, and evacuates the sociality of the organisational life or experience of a meeting, which created its meaning and representations. Yet such documentary practice also anticipates a future response. In mirroring legal texts human rights documents attempt to produce the same authority. It thus enables human rights actors to return meaning to the document through their future campaign work. Thus, the same document can be used in different countries across Asia and in response to varied situations. In using the document, regional authority across countries is given to the language of human rights as articulated within specific locales or countries. For example, a diverse range of human rights actors have used the Bangkok Statement on Vienna +10 to promulgate human rights. This is evident by its reference on a range of human rights websites and being discussed by human rights actors in the Asian region following the forum.

## Conclusion

In response to profound social, political and economic changes in the 1990s the practice of human rights has also transformed. To examine this change, scholars have asked Fisher's (1997) question on whether NGOs are "doing good?" (Murdock 2003). Instead of trying to determine whether NGOs are 'doing good' or its implied opposite, 'doing bad', Murdock suggests that scholars should rather "ask after the practices that tend to make NGOs more or less able to do certain things" (2003:524). It is from this perspective that this chapter examined the institutionalising of human rights and its consequences for NGOs such as Forum-Asia. Rather than seeing the professionalising of NGOs and the institutionalising of human rights as a totalising hegemonic effect, I suggested a nuanced perspective that focuses on practices and an ethnographic study of form and efficacy of human rights practices. This framework escapes the simple and easy position of equating professionalism with constraining dissent and opposition. Instead it illustrates the complex ways in which professionalism is given form and meaning, and enables and constrains practices.

In adopting this approach I illustrated how the bipolar and value laden binary between 'activism' and 'advocacy' is often deployed in the literature is far from compelling. Instead I suggested a shift in the language used to conceptualise political practice. Simplified accounts of professionalism suggest an *either/or* position in conceptualising political practice: that is *either* actors are activists who conduct confrontational and ideological politics with an emphasis on mobilisation, *or* they are professionals who focus on negotiation and compromise whilst deploying their technical skills and services. I questioned the partition between the different political practices constituted by activism and advocacy and its relevance for analysing change within Forum-Asia. Here Forum-Asia operates within diverse sites of struggle, contestation and negotiation where alliances and oppositions change and transform over time. Further, despite the professionalising of Forum-Asia's work in tackling human rights violations, it still regularly contests state authority and legitimacy.

This chapter considered the regime of human rights as a subject of anthropological critique and engagement. In doing so I explored how human rights regime instrumentalises knowledge and rationalises experiences of violence into legal form (Riles 2006a:54). The institutionalising of human rights can result in detachment and

distance between the subject of human rights and the spaces where violence is experienced and those where experts articulate and witness such acts. Participating in the UN system is restricted to actors with specific technical skills, knowledge and resources. Thus, the expansion of participation has largely been for NGOs and other 'experts', rather than the people who directly experience human rights violations and those marginalised actors from developing nations, people with low literacy and education, and children.

What are the implications for human rights practices and the constitution of political spaces? This chapter argued that the institutionalising of human rights through the UN system does legitimate and reproduce the state system at the expense of broader publics and more open participatory spaces. Yet this has not meant that all of Forum-Asia's practices are restricted to privileged spaces that inexorably reproduce the state system. As demonstrated above, Forum-Asia operates within other sites of power to counter this constraint. These more open and public spaces contest the legitimacy and authority of the state system, the hegemony of legal instrumentalism and the institutionalising of human rights. Further, in operating within the UN system Forum-Asia responds in a collective fashion by taking up and campaigning on human rights issues identified by several member organisations.<sup>92</sup> Forum-Asia has continually campaigned on expanding and increasing the representation of civil society actors at the United Nations (Forum-Asia 2004b), even though in practice this is usually restricted to NGOs rather than individuals. These practices illustrate the complex ways in which Forum-Asia gives meaning to the promotion and protection of human rights.

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## Notes

<sup>80</sup> See endnote 3 for a list of the key international human rights treaties.

<sup>81</sup> See chapter six for an analysis of audit cultures and chapter one for an examination of project development.

<sup>82</sup> The Special Issue is (2005) volume 37, issue 3.

<sup>83</sup> This is an organisational value of Forum-Asia.

<sup>84</sup> I also recognise that NGOs and actors are diverse and heterogenous, and hold multiple views, ideologies and identities, and operate in multiple ways.

<sup>85</sup> I had difficulty in obtaining a full list of Forum-Asia's project proposals and reports since its inception in 1991. Key individuals such as Pii Somchai Homloar and Pii Chalida Tajaroensuk hold significant organisational knowledge and history about Forum-Asia not recorded in documents. However, increasingly Forum-Asia is changing its practices by recording and retaining organisational knowledge. Accordingly I examined the documents that I was able to obtain, allowing for their different genres. In terms of their production both the project proposals and reports use the same set of headings for each period of activity and reporting, thus a comparison can be made between project proposals and reports over the years.

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<sup>86</sup> The mechanisms include Special Rapporteurs on thematic and country mandates, Representatives and Experts.

<sup>87</sup> ECOSOC is a principal organ of the UN which addresses economic, social, cultural, educational, health, environmental and other related matters.

<sup>88</sup> Article 71 of the UN Charter provides that the ECOSOC “may make suitable arrangement for consultation with non-government organizations which are concerned within its competence” (United Nations 1945). Organisations with official status have a limited number of representatives that can access official spaces at any given time. See Martens (2005) chapter five for greater detail on ECOSOC consultative status.

<sup>89</sup> Tate also explains that there are now many websites which provide information on how to participate in the UN system (2007:196).

<sup>90</sup> Yngvesson and Coutin (2006:178) make this point in relation to a birth and the production of the birth certificate.

<sup>91</sup> Interview with Pii Somsri Hananuntasuk, Executive Director of ANFREL (January 2004).

<sup>92</sup> During my initial period with Forum-Asia in 2003-2004, Forum-Asia began implementing strategies to develop greater representation of member organisations’ interests when operating within the UN system. The strategy was also designed to increase the force and coherency of Forum-Asia and its member organisations. This approach was also part of a larger response to more fully representing the interests and human rights issues of its members in its programmes.

## **Conclusion**

### **Anthropologising Human Rights**

I conclude by discussing the overarching concern of this thesis, the anthropologising of human rights and exploring the spaces existing between human rights principles and acts of violence in specific places. I consider future directions in researching the practice of human rights and finish with a postscript.

#### **The path of Forum-Asia**

In tracing the path of Forum-Asia, I explored the practice of human rights and how this is being shaped by the professionalising of organisational practice and the increasing emphasis placed on audit cultures – performance (efficiency and effectiveness), accountability and transparency. I stressed that this was not a simple process of appeasement or “ordering dissent” (Kothari 2005). Instead, the professionalising of Forum-Asia has constraining, enabling and productive effects in terms of operating between national, regional and international spaces within the human rights regime. This provided Forum-Asia important access to institutional sites of political power such as the United Nations or the Thai National Assembly. However, the institutionalising and legalising of human rights increases distanced social and spatial relations of power between the subjects of human rights and the places where human rights are constituted. Worryingly, it is usually the most marginalised and least visible who are absent from these engagements of human rights.

My three chosen themes to explore the practice of human rights – space and geopolitics, knowledge production, and discipline and agency – repositioned the undue emphasis on a legal and textual framing of human rights which conceals how human rights are produced in less institutionalised, more informal spaces. Rather than focusing on an instrumental or normative reading of human rights, this thesis considered human rights to be an “anthropological problem” that is constituted as an object of knowledge, technology, politics and ethics (Collier & Ong 2005:6). Here human rights can be seen as a “technology with its own techniques, aesthetics, and products” in its production and form (Coutin & Yngvesson 2008:1). I agree with Upendra Baxi that human rights constitute more than “an affair” with the law, rather human rights “signify practices of

resistance and struggle directed to *name* human rights and to put them to *work*" (2005:183). This idea of human rights is illustrated by Forum-Asia's human rights 'protection' work (see introduction) and is exemplified by the campaign response to Khun Somchai's disappearance (see chapter three). This also relates to how human rights "talk" (Wilson 2007:350) is used by actors to expand meanings and interpretations to acts of violence, and to legitimate and make public their human rights claims.

## **A trajectory in human rights**

Having traced the professionalising of Forum-Asia and its consequences for the practice of human rights in that organisation, I now consider further directions in the anthropologising of human rights, and the ethics and politics of researching human rights NGOs.

### ***Human rights and beyond sovereignty?***

This thesis questioned and critiqued the dominant conceptualisation of the state in conceptualising power and constituting political space. Some scholars have extended this argument to suggest that human rights bring into question state sovereignty (Lyons & Mastanduno 1995, Henkin 1995, Shen 2000, Aceves 2002). I offer an alternative reading and suggest that human rights practices both reproduce and contest the authority and legitimacy of the state. The international human rights regime entails a set of instruments and institutions that are produced *within* an international system of states. Jack Donnelly argues that the reshaping of sovereignty by human rights has left states no less sovereign than they were previously; the constraints human rights place on states is compatible with state sovereignty whereby sovereignty has been "modestly transformed" by human rights (2004:1). Further, Merry argues that the "vernacularization" of human rights law requires and even expands the rule of the state (2006b:223).

Human rights have been incorporated into the state system of international law with the majority of human rights law is implemented and enforced nationally. States are bound by customary international law, which restricts the exercise of sovereignty, but does not erode sovereignty as a legal status. Human rights violations such as genocide, war

crimes and crimes against humanity place obligations on states but these obligations do not have broader implications for the authority and legitimacy of states, even the generally accepted principle of permitting military intervention against genocide with authorisation by the United Nations Security Council. This recent development removes genocide from being a sovereign right but does not diminish the international state system. Instead it places a higher responsibility on other states. Transformations of sovereignty evince changing understandings of international law and politics, in which human rights are incorporated into an understanding of sovereignty (Donnelly 2004:12-16).

I agree that human rights do not necessarily erode or challenge state sovereignty; rather human rights can extend state sovereignty (Malmvig 2001:252). Thus challenging the sovereignty of the state in response to human rights violations, can rather problematise human rights as foreign “interventions”, leaving sovereignty intact residing naturally in the order of world politics (Malmvig 2001:255).

### ***Human rights and governmentality***

In chapter four I explored the constitution of civil society and conceptualised the relationship between human rights NGOs and the state. My focus was on the operation, instruments and techniques of power. This practice-oriented approach emphasises the often non-sovereign, capillary workings of power instead of investigating its sources, functions and contents (Merlingen 2003:367). I suggest that the same framework can be applied to the practice of human rights, and in doing so, change the focus from how human rights presumably challenge sovereignty (transferring power from the state to non-state actors) to focus on the rationality of government whereby human rights actors are both an *object* and a *subject* of government (Sending & Neumann 2006:652). This framework decentres power conceived as sovereignty and the institutionalisation of political authority (Sending & Neumann 2006:655) and rather considers the operation of government (Barry et al. 1996a:11-12).

Take for example the role human rights NGOs play in conducting fact-finding missions and relaying this information through campaigns and activities to human rights treaty bodies. Here the operation of government (in a Foucauldian sense), that is the monitoring of states to comply with international human rights instruments

(surveillance), is being performed by human rights NGOs such as Forum-Asia that identify as 'non-government'. This is not a matter of transferring power from the state to NGOs. Rather it illustrates a technique of government that constitutes human rights NGOs as subjects of the international human rights regime and performing the operation of government (see Barry et al. 1996b, Burchell et al. 1991, Rose & Miller 2002).

The use of the Foucauldian concept of governmentality in this context moves away from the idea of territoriality and the sovereign nation-state as a technique in the operation of government (Foucault 1991). In doing so the dominant spatial and scalar frames of sovereign states, verticality and encompassment (Ferguson & Gupta 2002) (see chapters two and four), are brought into question as the operation of power is not centred on the sovereign state or the international human rights regime that presumably stretches over and above nations (Ferguson & Gupta 2002:990). Ferguson and Gupta argue that the implication of this approach is to "treat state and non-state governmentality within a common frame, without making unwarranted assumptions about their spatial reach, vertical height, or relation to the local" (2002:994).

A focus on the operation of government brings into question the dominant view that NGOs are reducing the power of states by their increasingly significant roles in world politics (see Princen & Finger 1994, Keck & Sikkink 1998, Clark et al. 1998, Risse et al. 1999, Porter et al. 2000, Raustiala 2002). Instead I suggest there has been a shift in the rationality of government such that human rights NGOs are now part of the international human rights regime and should be understood as a technique of government. Human rights NGOs are also objects of government, as the international state system constitutes and brings into force international human rights instruments. In doing so states are able to restrict and determine, at least in institutional spaces such as the UN, how NGOs can partake in the operation of government. One example is the requirement for NGOs to have UN consultative status to participate formally in UN meetings.

Forum-Asia is engaged in human rights knowledge production by producing human texts. Due to the legal form given to human rights, this knowledge creates the illusion of completeness, while masking the multiple meanings of violence and the shifting subject positions of human rights subjects. As technical 'experts' human rights NGOs claim



authority over human rights topics and geographic areas, thereby rendering a particular type of governing possible. Important here is the professionalising of NGOs and the acquiring of technical skills and legal knowledge to operate in the international human rights regime. In doing so Forum-Asia gives a particular meaning to governing populations, whereby the operation of political authority shifts in part from institutional forms of the state to autonomous, technically skilled actors.

### *Ethics and politics*

Feminist theory has provided critical insight into the socially situated nature of producing knowledge, and the social and spatial relations of power between researcher and research subjects (see Lewin 2006). From this perspective it is necessary for researchers to consider their positions of power and authority in research relationships (Speed 2006:74). In the introduction I discussed my subject position as an intern and suggested that being an intern provided a unique methodological tool for conducting ethnographic research on NGOs. Yet there are ethical and political considerations to consider when researching human rights NGOs.<sup>93</sup>

How does one make decisions about one's behaviour when confronted with a multitude of diverse scenarios? For example, does a researcher report information about an NGO's poor practices if this could lead to the NGO losing its funding? As an intern am I responsible to my manager or do I privilege my research position and focus on gathering data regardless of its implications? I do not suggest these questions are unique to interns or to the researching of (human rights) NGOs. Rather, I suggest the researching of human rights places distinctive obligations on researchers, what Nancy Scheper-Hughes calls "the primacy of the ethical" (1995). During my research with Forum-Asia two prominent forms of human rights violations were being committed; the extrajudicial killings and summary executions of suspected drug dealers as part of the 'war on drugs' campaign; and the violence being committed in Southern Thailand. Forum-Asia responded publicly to both forms of state violence and as an intern I was responsible for compiling information about the 'war on drugs'. In researching ongoing violence my interlocutors were not always able or willing to discuss in full the work they were undertaking. On certain issues I have maintained silence at the request of my colleagues at Forum-Asia.

In carrying out my research I adopted a critical perspective on Forum-Asia. This was not to denigrate Forum-Asia actors or their work, but rather, to explore how human rights are given form and meaning under regimes of audit culture and professionalism and to consider some of the implications of this both theoretically and empirically. In doing so I did not want to ask whether NGOs are “doing good?” (Fisher 1997). Instead I argued that the professionalising of Forum-Asia shapes the practice of human rights unevenly and in different ways. I see this process as the “paradox of professionalising” NGOs (Markowitz & Tice 2002).

Rather than focusing on whether NGOs are ‘doing good’ or ‘bad’, the focus should be on the practices and discourses NGOs are engaged in, in particular what do they enable and constrain, reproduce and question. Such a framework moves away from moralising certain practices and generalising actions. I took this approach when examining the split between the Forum-Asia Foundation and Forum-Asia. My interest was not to cast blame or point fault at someone. Instead I was interested in examining how an organisation that anticipates change and enacts change, results in prominent members leaving Forum-Asia. How does one make sense of this situation and what does this say about organisational change that is constructed as being ordered and predictable?

In Scheper-Hughes’ (1995) call for “the primacy of the ethical”, her focus is on anthropologists making public and taking an ethical stance on violence. I suggest this position is complicated when considering the performance of human rights NGOs that is not connected to practising or condoning violence. The issue is what counts as the *ethical*? I suggest that a detailed focus on practice that questions assumptions of what is ‘good’ and ‘bad’ is to act ethically and provides for a more nuanced account of the lived experience, while recognising the partial reading given to the events. By examining the practices and contexts issues of performance can be explored.

### **Postscript**

In researching human rights it is important to remember it is an ongoing struggle. The narrative I have represented in this thesis is only one part of the story, in a particular moment in time. The story has continued with the former Prime Minister Thaksin being ousted in a military coup in 2006 and in October 2008 he was found guilty of violating anti-corruption laws over the purchasing of state-owned Ratchadaphisek land, as public

office holders and their spouses are barred from entering into a contract with the state. Thaksin is now in exile overseas and an arrest warrant has been ordered for him to return to Thailand and serve his two year jail term. This dramatic shift in Thaksin's fortunes is very different from his earlier claims when Prime Minister that he would remain Prime Minister for 10 years.

The violence in southern Thailand is still ongoing with continuing acts of state violence involving torture and indiscriminate detention of suspected insurgents and sympathisers. Recent cases include a local resident, Asahari Samaae, who was detained in July 2007 and has disappeared and an imam who was beaten to death while in military custody in March 2008 (International Crisis Group 2008). In stark contrast to the disappearance of Khun Somchai, these cases have not received the same public attention and national and international outcry. What remains clear is the continued shackling of justice and the reign of impunity in Thailand, especially in cases involving people constructed as 'un-Thai' and 'anti-Thailand'.

For more than 10 years, Forum-Asia actors, both past and present, have been determinedly campaigning on the rights of Burmese refugees, condemning state violence in all its forms, and promoting the rights of human rights defenders. This makes me acutely aware of the important role Forum-Asia plays in the Asian region to promote human rights, democracy, development and peace, and I applaud Forum-Asia for its tireless work and achievements. On the issue of accountability and organisational performance I suggest it is extremely difficult to make easy connections between programmes and human rights outcomes given the complex and shifting political and social spaces human rights NGOs operate in. Thus I do not provide an evaluation or assessment of Forum-Asia's performance. Instead I cast doubts on the purpose and benefits of excessive auditing human rights NGOs are now experiencing and question the value of audit cultures to promoting "Asian solidarity and human rights for all".

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## Notes

<sup>93</sup> As a researcher I had a range of responsibilities to Forum-Asia that stem from my university's research and ethics policy such as gaining approval from an ethics committee, consent from research subjects to conduct research, to act with integrity, respect for persons, and justice and beneficence. These research ethics apply to all researchers at university and similar policies exist in universities elsewhere.

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